

STATE OF MAINE

LAWS

Relating to

**PRIVATE INVESTIGATORS**

**And**

**INVESTIGATIVE ASSISTANTS**



ISSUED BY THE  
BUREAU OF MAINE STATE POLICE  
AUGUSTA, MAINE

May 2009

This Pamphlet issued from the Office  
of the

**BUREAU OF MAINE STATE POLICE**

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**All applicants are encouraged to consult the Bureau of Maine State Police on any questions  
involving Private Investigators and Investigative Assistants  
207-624-7210**

**Maine Revised Statute Title 32, Chapter 89: PRIVATE INVESTIGATORS**

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## **32 §8101. SHORT TITLE**

This chapter shall be known and may be cited as the Private Investigators Act.

## **32 §8102. PURPOSE**

It is the purpose of this chapter to regulate any person, firm, corporation or other legal entity engaging in the business of private investigating.

## **32 §8103. DEFINITIONS**

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

- 1. Commissioner.** "Commissioner" means the Commissioner of Public Safety or the commissioner's designee.
- 2. Investigative Assistant.** "Investigative assistant" means a person who acts as a private investigator under the direct supervision of a licensed private investigator in accordance with this chapter.
- 3. Licensee.** "Licensee" means any person licensed under this chapter as a private investigator.
- 4. Person.** "Person" means any natural person, firm, association, partnership, corporation, government agency or subdivision, or any employee or agent thereof.
- 5. Private investigator.** "Private investigator" means any person who, for any consideration whatsoever, engages in or solicits business or accepts employment to furnish, or agrees to make or makes any investigation to obtain, information with reference to any of the following:
  - A. Any crime or other act committed or threatened against the laws or government of the United States, any state or territory, or any political subdivision thereof;
  - B. The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person;
  - C. Libels, fires, losses, accidents, or damage or injury to persons or property;
  - D. The location, disposition or recovery of lost or stolen property; or
  - E. Evidence to be used before any court, board, officer or investigative committee.

## **32 §8104. LICENSE REQUIREMENT; EXCEPTIONS**

- 1. License.** No person may act as a private investigator without first obtaining from the commissioner a license to be a private investigator or investigative assistant.
- 2. Exceptions.** This section does not apply to the following:
  - A. A person employed by or on behalf of the State, any political subdivision thereof, or any public instrumentality, while in the performance of his official duties;
  - B. A charitable or philanthropic organization, duly incorporated under the laws of the State, or any agent thereof, provided that the organization is not operated for profit;
  - C. A person employed to inquire into the fitness of an applicant for employment with that person's employer;
  - D. A credit reporting bureau or agency, or agent thereof, whose business is the furnishing of information concerning a person's business, financial or credit standing;
  - E. An insurance company, or agent thereof, investigating the personal habits and financial responsibility of applicants for insurance or indemnity bonds;
  - F. An attorney acting in a professional capacity;
  - G. A nonprofit trade or business association, board or organization, whether incorporated or unincorporated, or any agent thereof, conducting an investigation for the following

purposes:

(1) To furnish to members of the association, board or organization, information concerning the business, financial or credit standing or the reputation of a person with whom the members consider doing business; provided that the investigation is no more extensive than is reasonably necessary; or

(2) To compile or disseminate statistics or data relating to business of the members of the association, board or organization;

H. An insurance adjuster or investigator, or an employee investigating claims for or against his employer;

I. A person engaged in compiling genealogical information;

J. A person possessing a valid private investigator's license granted under any prior existing provision of law of this State, provided that, upon expiration of the license, the person shall be governed by this section; or

K. An employee of a person not licensed under this chapter to do private investigative work, including a proprietary security organization, provided that the employee performs investigative functions solely for the employer and relating to the conduct of the employer's business.

### **32 §8105. PRIVATE INVESTIGATOR'S LICENSE QUALIFICATIONS**

A person is qualified to be licensed as a private investigator who:

**1. Age.** Is at least 18 years of age;

**2. Citizenship.** Is a citizen or resident alien of the United States;

**3. Graduation.** Is a graduate of an accredited high school or has been granted high school equivalency status by the State;

**4. Character.** Has demonstrated good moral character and has not been convicted of a crime which is punishable by a maximum term of imprisonment equal to or exceeding one year, or a crime enumerated in this chapter. The determination of good moral character shall be made in writing, based upon evidence recorded by a governmental entity. The commissioner shall consider matters recorded within the previous 5 years including, but not limited to, the following:

A. Records of incidents of abuse by the applicant of family or household members provided pursuant to Title 19-A, section 4012, subsection 1

B. Records provided by the Department of Health and Human Services regarding the failure of the applicant to meet child or family support obligations;

C. Records of 3 or more convictions of the applicant for Class D or E crimes;

D. Records of 3 or more civil violations by the applicants; or

E. Records that the applicant has engaged in recklessness or negligence that endangered the safety of others, including the use of weapons or motor vehicles;

**5. Application.** Submits an application which contains the following:

A. Full name;

B. Full current address and addresses for the prior 5 years;

C. The date and place of birth, height, weight and color of eyes;

D. A statement granting the chief of police authority to check the criminal records of any law enforcement agency. The applicant must agree to submit to having his fingerprints taken by the issuing authority if it becomes necessary to resolve any question as to his identity; and

E. Answers to the following questions:

- (1) Are you currently under indictment or information for a crime for which the possible penalty is imprisonment for a period equal to or exceeding one year?
- (2) Have you ever been convicted of a crime for which the possible penalty was imprisonment for a period equal to or exceeding one year?
- (3) Are you a fugitive from justice?
- (4) Are you an unlawful user of or addicted to marijuana or any other drug?
- (5) Have you been adjudged mentally defective or been committed to a mental institution within the past 5 years? or
- (6) Are you an illegal alien?

By affixing his signature, the applicant certifies that the information in the application provided by him is true and correct and that he understands that an affirmative answer to the questions in paragraph E, subparagraph (5) is cause for refusal and any false statement may result in prosecution as provided in section 8114.

**6. Military discharge.** Has not been dishonorably discharged from military service;

**7. Employment.**

**7-A. Experience.** Meets at least one of the following criteria:

A. Has been employed for consideration for a minimum of 1,700 hours as an investigative assistant possessing a valid license issued by the commissioner. The 1,700 hours must have been completed within 2 years after the date of issuance of the investigative assistant license but may not have been completed in less than one year after the date of issuance of the license;

B. Has been employed for a minimum of one year as a member of an investigative service of the United States;

C. Has been employed for a minimum of one year as a law enforcement officer of a state or political subdivision of a state and has met the training requirements set forth in Title 25, section 2804-C, or is qualified to receive a waiver from those requirements; or

D. Possesses a minimum of 6 years of preparation consisting of a combination of:

(1) Work experience, including at least 2 years in a nonclerical occupation related to law or the criminal justice system; and

(2) Educational experience, including at least:

(a) Sixty academic credits of post-secondary education acquired at an accredited junior college, college or university; or

(b) An associate degree in law enforcement, based on 2 years of post-secondary instruction, conferred by an established technical college; and

**8. Examination.** Has passed an examination administered by the commissioner covering subjects pertaining to private investigation to be prescribed by him, provided that a person currently licensed, as described in section 8106, may at no time be required to take any such examination.

**32 §8106. ACQUISITION OF LICENSE BY PERSONS CURRENTLY LICENSED**

A person possessing, under Maine law, a valid private investigator's license on the effective date of this chapter whose license then expires, shall by application, compliance with section 8105, subsection 8 and payment of the required fee, be entitled to a private investigator's license.

**32 §8107. APPLICATION FOR ORIGINAL LICENSE**

Applications for original licenses shall be made to the commissioner in writing under oath on forms prescribed by him with respect to the requirements of section 8105. The application shall be accompanied by the fee required under section 8117, and by a certification, by each of 3

reputable citizens of the State, of the following:

1. **Residence.** That he resides in the community in which the applicant resides, has a place of business or proposes to conduct his private investigator business;
2. **Knowledge of applicant.** That he has personally known the applicant for at least 3 years;
3. **Relation to applicant.** That he is not related to the applicant by blood or marriage;
4. **Character of applicant.** That the applicant is honest and of good moral character; and
5. **Truth of statements in application.** That he has read the application and believes each statement in it to be true.

### **32 §8108. APPLICANT WITH OUT-OF-STATE LICENSE**

The commissioner shall grant a license to an applicant who has a valid private investigator's license granted under the laws of another state or territory of the United States, upon payment of the required fee and the production of satisfactory proof that:

1. **Equivalent requirements.** The requirements of the state or territory for a private investigator's license were, at the date of the licensing, substantially equivalent to the requirements of this chapter; and
2. **Reciprocity.** The other state or territory grants similar reciprocity to license holders in this State.

### **32 §8109. RENEWAL OF LICENSE**

Each private investigator's license is valid for an initial term of 2 years and is, unless revoked or suspended, renewable every 4 years after the initial term.

### **32 §8110. INVESTIGATIVE ASSISTANT'S LICENSE**

1. **Qualifications.** A person is qualified to be licensed as an investigative assistant who meets the qualifications set forth in section 8105, subsections 1 through 6.
2. **Application.** Application for an investigative assistant's license shall be made to the commissioner in accordance with the requirements of sections 8105 and 8107. The application shall be accompanied by the fee required under section 8117.
3. **Term of license.** The license is valid for 2 years from the date of issuance and is not renewable.

### **32 §8110-A. EMPLOYMENT OF INVESTIGATIVE ASSISTANT**

A private investigator duly licensed under this chapter may employ investigative assistants provided that:

1. **Limit on number of investigative assistants.** No more than 3 investigative assistants are employed at one time; and
2. **Assistants to be licensed.** Each investigative assistant is duly licensed under this chapter.

### **32 §8111. BONDING REQUIREMENT**

1. **Requirement.** A person licensed as a private investigator shall give to the commissioner a bond in the sum of \$10,000 if he is a resident of the State and in the sum of \$50,000 if he is not a resident of the State.

A person licensed as an investigative assistant shall give to the commission a bond in the sum of \$20,000.

2. **Form of a bond.** Each bond shall:
  - A. Be in a form prescribed by the commissioner;
  - B. Be executed by the licensee as principal and by a surety company authorized to do business in this State as surety; and

C. Be conditioned upon the honest conduct of the business of the licensee and the right of any person, including the officer of any aggrieved labor union or association, whether or not incorporated, injured by the intentional, knowing, reckless or negligent act of the licensee to bring, in his own name, an action on the bond.

### **32 §8112. INELIGIBILITY OF PUBLIC OFFICIALS**

No person is eligible for a license under this chapter who derives plenary or special law enforcement powers from the State or any political subdivision thereof.

### **32 §8113. REFUSAL; SUSPENSION; REVOCATION; GROUNDS**

The commissioner may, after notice of an opportunity for hearing in conformance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, refuse to issue or renew a license. The District Court may suspend or revoke the license of any person licensed under this chapter. The following are grounds for an action to refuse to issue, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

**1. Fraud or deceit.** The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

**2. Conviction of certain crimes.** Conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed or which is enumerated in this chapter, or conviction of any crime for which incarceration for one year or more may be imposed;

**3. Violation of chapter or rule.** Any violation of this chapter or any rule adopted by the commissioner;

**4. Aiding or abetting unlicensed practice of private investigation.** Aiding or abetting the practice of private investigation by a person not duly licensed under this chapter and who represents himself to be duly licensed;

**5. Failure to maintain bond.** Failure to maintain a bond as required by section 8111;

**6. Incompetence.** Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

A. Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or the general public; or

B. Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

**7. Employment of prohibited person.** Employment, in connection with a private investigation business, in any capacity, of any person who has been convicted of a crime punishable by imprisonment for one year or more or any former licensee whose license has been revoked; or

**8. Representations that licensee is sworn peace officer.** Representation by the licensee which suggests, or which would reasonably cause another person to believe, that he is a sworn peace officer of this State, any political subdivision of this State, any other state or of the Federal Government.

### **32 §8113-A. SUSPENSION FOR REFUSAL**

**1. Immediate suspension.** If the commissioner has probable cause to believe that a person licensed pursuant to this chapter is required 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 licensee is in possession of a loaded firearm and the licensee refuses to submit to the required testing, the commissioner shall immediately suspend the licensee's right to carry a concealed firearm.

**2. Report to commissioner.** The law enforcement officer who has probable cause to require chemical testing shall promptly notify the commissioner of the licensee's refusal and provide the



commissioner with a report of the facts and circumstances of the requirement to submit to chemical testing and of the licensee's refusal.

**3. Suspension in effect during pendency.** The suspension remains in effect until the entry of judgment if charges are filed of violating Title 17-A, section 1057 or of operating a motor vehicle, snowmobile, ATV or watercraft under the influence of intoxicating liquor or drugs, unless it is determined by the court in which the criminal charge or civil violation is pending, or by the Secretary of State if a hearing is held pursuant to Title 29-A, section 2483, that the law enforcement officer did not have probable cause to require the licensee to submit to chemical testing.

## **32 §8114. UNLAWFUL ACTS**

**1. Acting without license; false representation.** It is a Class D crime for any person knowingly to commit any of the following acts:

- A. Subject to section 8104, to act as a private investigator without a valid license;
- B. To falsely represent that he is the holder of a valid license;
- C. To falsely represent that any person in his employ is a private investigator or investigative assistant; or
- D. To make any false statements or material omission in any application filed with the commissioner.

**2. Representation as peace officer; employment of felon; failure to surrender license.** It is a Class D crime for a licensed private investigator or investigative assistant knowingly to commit any of the following acts:

- A. To make any representation, including, but not limited to, presentation of a badge, that suggests, or that would reasonably cause another person to believe, that the licensed private investigator or investigative assistant is a sworn peace officer of this State, any political subdivision thereof, or any other state or of the Federal Government;
- B. To employ, in connection with a private investigator business, in any capacity, any person who has been convicted of a felony or any former licensee whose license has been revoked; or
- C. To fail or refuse to surrender his license to the commissioner following revocation or suspension.

**3. Employing unlicensed individual.** It is a Class D crime for a licensed private investigator knowingly to employ or engage any other person to act as a private investigator unless the person so employed or engaged is licensed as a private investigator or investigative assistant.

**4. Failure of assistant to return equipment.** It is a Class D crime for a licensed investigative assistant knowingly to fail to return immediately on demand, or within 7 days of termination of his employment, any item of equipment issued to him by his employer.

**5. Other unlawful acts.** It is a Class D crime for a person licensed under this chapter or any person employed by him knowingly to commit any of the following acts:

- A. To incite, encourage or aid any person who has become a party to any strike to commit any unlawful act against any person or property;
- B. To incite, stir up, create or aid in the inciting of discontent or dissatisfaction among the employees of any person with the intention of having them strike;
- C. To interfere with or prevent lawful and peaceful picketing during strikes;
- D. To interfere with, restrain or coerce employees in the exercise of their right to form, join or assist any labor organization of their own choosing;
- E. To interfere with or hinder lawful or peaceful collective bargaining between employers

and employees;

F. To pay, offer to give any money, gratuity, consideration or other thing of value, directly or indirectly, to any person for any verbal or written report of the lawful activities of employees in the exercise of their right to organize, form or assist any labor organization and to bargain collectively through representatives of their own choosing;

G. To advertise for, recruit, furnish or replace or offer to furnish or replace for hire or reward, within or outside the State, any skilled or unskilled help or labor, armed guards, other than armed guards employed for the protection of payrolls, property or premises, for service upon property which is being operated in anticipation of or during the course of a strike;

H. To furnish armed guards upon the highways for persons involved in labor disputes;

I. To furnish or offer to furnish to employers or their agents any arms, munitions, tear gas implements or any other weapons;

J. To send letters of literature to employers offering to eliminate labor unions; or

K. To advise any person of the membership of an individual in a labor organization for the purpose of preventing that individual from obtaining or retaining employment.

### **32 §8115. IDENTIFICATION CARDS**

The commissioner shall design and issue to each person licensed under this chapter an identification card featuring a recent photograph of the licensee.

### **32 §8116. POWERS OF THE COMMISSIONER**

**1. Subpoenas.** In any investigation conducted by the commissioner under this chapter, the commissioner may issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to any fact in issue.

**2. Contempt.** If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the commissioner, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an order requiring him to appear before the Superior Court to show cause why he should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant him in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

**3. Rules.** The commissioner shall adopt all rules necessary to administer this chapter including, but not limited to, fixing application and license fees and establishing a training requirement for investigative assistants.

### **32 §8117. FEES**

**1. Amount.** The fee for an original biennial license is \$400, of which \$50 must be submitted with the application and \$350 must be submitted upon issuance of the license. The fee for a 4-year renewal is \$400, which is refundable upon denial of renewal. The fee for an investigative assistant's license is \$600, of which \$200 must be submitted with the application and \$400 must be submitted upon issuance of the license.

**2. Expiration.** If a previously issued license has expired and not been renewed within a period of 60 days, the application shall be considered the original application and the same fees and all requirements of an original application shall apply.

**3. Expenses.** The fees required under this chapter shall be applied to the expense of administering this chapter.

### **32 §8118. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT**

The Maine Administrative Procedure Act, Title 5, chapter 375, shall govern all

administrative actions taken under this chapter.

### **32 §8119. SEVERABILITY CLAUSE**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid by the court of competent jurisdiction, the holding shall not affect other provisions or applications of this chapter which can be given effect without that jurisdiction or application.

### **32 §8120. FIREARMS PROFICIENCY**

Repealed 1997, c. 360, §4

### **32 §8120-A. FIREARMS**

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

### **32 §8121. CONFIDENTIALITY WHEN UNDER CONTRACT TO LAW ENFORCEMENT AGENCY**

A private investigator or investigative assistant who enters into a written contract with a law enforcement agency in this State to provide investigative services or consultation to the law enforcement agency is subject to the same provisions of law regarding confidentiality as are employees of the law enforcement agency with which the private investigator or investigative assistant is under contract.

## **Select Offense Referred to in 25 M.R.S.A. Chapter 252**

### **1. POSSESSION OF FIREARMS IN AN ESTABLISHMENT LICENSES FOR ON-PREMISES CONSUMPTION OF LIQUOR (17-A M.S.R.A. § 1057)**

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

A. Not being a law enforcement officer or a private investigator licensed under Title 32, chapter 89 and actually performing as a private 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

B. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive blood-alcohol level, the person possesses a firearm in a licensed establishment.

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.

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

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 blood-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.

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 blood-alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401, subsection 13. "Excessive blood-alcohol level" means 0.08% or more by weight of alcohol in the blood. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive blood-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 issued pursuant to Title 25, chapter 252, or of the authority of a private investigator licensed to carry a concealed firearm pursuant to Title 32, chapter 89, is as provided in those chapters.

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

B. If the person so convicted is licensed as a private investigator, suspend for a period of 5 years that person's right as a private investigator to carry a concealed firearm.

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.

## **Mailing Address**

Department of Public Safety  
Gaming & Weapons Section  
164 State House Station  
Augusta, Maine 04333-0164

## **Web Address**

<http://www.maine.gov/dps/msp/licenses>

## **Physical Address**

Department of Public Safety  
Gaming & Weapons Section  
45 Commerce Center Drive, Suite 1  
Augusta, Maine 04330