



# Gun Owners Of Maine, Inc.

Every citizen has a right to keep and bear arms  
and this right shall never be questioned.



## What's Behind Tim Marks' Concealed-Carry Bills

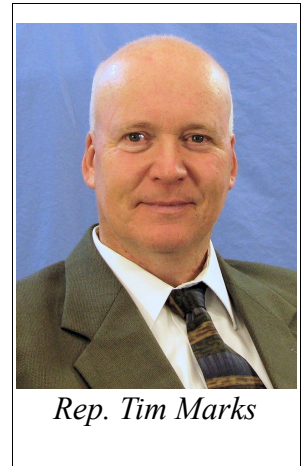
*An Interview with Maine State House Representative Tim Marks*

By Todd Tolhurst, [todd@birch-knoll.com](mailto:todd@birch-knoll.com)  
March 22, 2013

Tim Marks is a member of the Maine House of Representatives from District 53, representing Alna, Dresden, Pittston and Wiscasset. He serves on the Joint Committee for Criminal Justice and Public Safety and the Joint Committee for Inland Fisheries and Wildlife. Rep. Marks is a retired Maine State Trooper with 25 years of service.

Rep. Marks has introduced seven bills in the 126<sup>th</sup> Legislature, each of which would alter Maine's concealed handgun permitting system in some way. These proposals have been greeted with considerable suspicion by gun-rights advocates, and a rally in opposition to Rep.

Marks' bills was held on March 9 in Wiscasset. Rep. Marks attended that rally, but did not speak. I thought it would be good to hear his reasoning behind the bills, so I asked if he would agree to an interview, and he replied that he would like to be heard. This is that interview.



*Rep. Tim Marks*

**TT:** *Representative Marks, you've introduced seven bills which would make changes to the way that Maine Concealed Handgun Permits (CHPs) are issued and administered. These bills have raised concerns among many CHP holders and gun-rights proponents, and some have characterized you and these bills as anti-gun. You have been quoted as saying that this "couldn't be further from the truth." In brief, how would you describe what your goals were in proposing these bills?*

### Summary of the Bills

**LD 188** would require the holder of a revoked permit to surrender it, and make it a crime to possess a suspended or revoked permit.

**LD 189** would establish a central database of concealed handgun permits.

**LD 191** would allow an issuing authority to suspend a permit if it has reasonable cause to believe the permit is subject to revocation.

**LD 222** would make the Chief of the State Police the sole issuing authority.

**LD 223** would raise the age of eligibility for a permit from 18 to 21 years of age.

**LD 771** would render nonresident permits invalid outside of Maine, and prohibit reciprocity agreements from permitting Maine nonresident permits from being used as the basis to issue a permit in the reciprocal state.

**LD 958** would establish a database of those admitted or committed involuntarily to mental institutions, to be used for the purpose of the issuance of concealed handgun permits.

**Rep. Marks:** I do not view my bills as "anti gun" or against the 2nd amendment. That is not my intent at all. I am not looking at taking away any persons guns. I look at my legislation as administrative.

As a retired Trooper it was very frustrating to try and verify anyone's permit. There were over 200 Police departments and municipalities issuing them and none of them were connected. The information was not available, only during business hours. Some towns permits are blue, some are white some are on paper some plastic. Some have your photo, some do not. My point is that they are all different. It was impossible to verify them unless you knew which town issued it and then call them during business hours.

My goals are to put them into a central data base where only law enforcement could have access to them. I do not think they should be public and have already and will vote again to keep them non public.

I do not care who controls the data base, my thoughts were that the state police does most of them already they would be the logical choice. I know that they are backed up. Well they have had a ton of requests recently and I would vote to give them extra help to make sure there were no backups.

I think of it like the Secretary of State's Drivers license. There is one state agency who handles them not 200 separate. Those drivers license info is available to law enforcement 24/7 The state does them in an impartial way. Its not who you know or if your friends with the selectmen to get your license.

The municipalities would still have a say when the State sends the sign off request to the town. The town reviews the request and if they have a problem or knowledge they make it known. My idea is that the towns would not have to do the

backgrounds and save them some money. And it would remove the good old boy system from the situation.

**TT:** *Let's talk about each of the bills in turn. LD 188 would require a CHP holder to surrender his or her permit upon revocation, and would make it a crime to possess a suspended or revoked permit. How large of a problem does Maine have with people continuing to carry revoked CHPs? To the the extent that people do carry revoked CHPs, why is that such a concern that it needs to be criminalized? Wouldn't it be sufficient to simply impose a fine for failure to surrender a revoked permit?*

**Rep. Marks:** Same as a drivers license - it is illegal to posses a suspended one. There is not a huge problem here as most are very law abiding and responsible. But there has to be a provision when someone commits a new crime to get that permit revoked. If they are returned when requested there is no violation, only after they have been revoked and the permit holder still displays it as a valid permit is the crime committed. Just like a drivers license. With the issue of the permits not being available to law enforcement, not many have been uncovered. It usually becomes known upon their renewal, so a person could have been carrying a permit that should have been revoked years ago.

**TT:** *LD 189 would require the creation of a central CHP database. Gun-rights supporters are naturally suspicious of databases, and all the more so on the heels of the Bangor Daily News incident in which the newspaper made a Freedom of Access Act request for all CHP permit data from every issuing authority in the State of Maine. While a central database would doubtless have benefits for law enforcement, CHP holders worry that such a database could easily be used in ways that are not to their benefit. Are there any benefits to CHP holders from a centralized database? If such a database*

*were created, shouldn't the law also limit who can access that data and for what purpose?*

**Rep. Marks:** Like I mentioned above it makes no sense to have 200 separate ones. As far as a data base, they have been here for years. Just separate. I do not know how the BDN even made the request. They would have had to contact every town and PD in the state. Heck we do not even know how many permits we have out currently, they are that disorganized. I do not know if this would benefit the permit holders but it certainly would the Police. I want to be clear that the names would be confidential and not available to the public. I think that FOAA is for government transparency and financial accountability not person names and address's.

**TT:** *Yet the language of LD 189 includes no provision exempting permit data from FOAA; if the bill passes in its current form, that database would be available to the public. Do you intend to amend the bill to include such an exemption?*

**Rep. Marks:** I was thinking Cory Wilson's bill (LD 345) would take care of not making the data public. But could be included here also.

**TT:** *A central database accessible to law enforcement also raises other concerns. Should law enforcement be permitted to routinely or automatically access this data during a traffic stop or a dispatch to a residence, and inform officers that the driver or resident holds a CHP? Would you support restrictions to prevent such use of the data?*

**Rep. Marks:** Law enforcement should be able to access the data as a means to check who has them and if they are valid in the course of their duties as police officers.

**TT:** *LD 191 would allow an issuing authority to suspend a person's CHP if it has reasonable cause to believe the permit is subject to revocation. While the proposal provides a mechanism for the CHP holder to appeal a*

*suspension, and provides a time limit for the issuing authority to conduct a hearing and decision on the suspension, it would allow the issuing authority to leave the permit in a suspended status indefinitely without actually revoking the permit. Wouldn't this process be open to abuse?*

**Rep. Marks:** There has to be a process to suspend a permit, just like a drivers license. If a new crime has been committed, or any other reason, a person should not hold a permit. I am thinking of all those questions on the application come about. There would be a due process hearing where a permit holder can give their side to an impartial mediator. Same as a person charged with OUI there is a DMV hearing separate from the criminal case. It would make your permit more credible or valuable. When the ones who fail to keep up with the standards are taken out of the system.

**TT:** *As currently written, would permit an issuing authority to suspend a permit, conduct a hearing, and issue a decision in support of the suspension – all of which is fine in the proper circumstances. But, as written, the issuing authority may leave the permit suspended indefinitely, without ever proceeding to revocation. This is rather like arraigning a suspect, finding there is cause to hold him, locking him up, but never taking him to trial. Doesn't this bill need to require that the revocation be promptly executed, or the suspension vacated if the permit is not revoked in a timely manner?*

**Rep. Marks:** I agree if a permit is suspended there should be a hearing to quickly revoke it or not.

**TT:** *LD 222 would eliminate municipal issuance of CHPs, and make the Chief of the State Police the sole issuing authority. Some people are concerned about the loss of home rule in the issuance of CHPs, trusting their local officials to make a better and fairer decision than clerks and detectives far away in Augusta. How would*

*having a single State-level issuing authority benefit citizens?*

**Rep. Marks:** This is easy, let's take away the "its who you know" or the good ole boy system out of it. Or on the other side, if the Police chief or selectmen do not like you, no permit. Issuance of a permit should be based on facts, not who you know. Again just like a drivers license, pass the test you get your license. Towns would still have a say with the sign off request. When they receive the request they make their case.

I thought that this might save the towns some money and aggravation not having to decide whether their neighbors get a permit. I have talked to local officials and they would gladly get rid of it. They say its a pain and costs them money.

**TT:** *If authority to issue CHPs is concentrated in a single entity, shouldn't better guarantees of prompt and fair issuance be made? The State Police have long exceeded the statutory maximum time to issue permits. Doesn't the agency need not only the proper resources and funding to comply with the law, but also proper incentives to do so?*

**Rep. Marks:** I met with Lt. Ireland of the State Police about this issue this morning. He said the problem is twofold. They are swamped with requests. They are admittedly backed up. I expect the Governor will request more people to help with the backlog and Riverview and Dix in Bangor are very slow with the mental health checks. It all combines to slow the process.

**TT:** *Regarding the excessive permit issuance times, the law currently sets a time limit for the issuing authority to issue or deny a permit, yet the law is routinely ignored because there are absolutely no consequences whatsoever for violating it. It is galling to permit holders that they are expected to diligently comply with the law,*

*but the State violates the law with total impunity.*

*Shouldn't there be proper incentives to ensure that issuing authorities are doing their very best to comply with the law? In some states, if the permit isn't issued by the statutory deadline, the permit is considered issued in default. Or perhaps the agency should forfeit and refund the permit fee if the permit is not timely issued.*

*What measures would you support to provide incentives for issuing authorities to comply, rather than disregard, the law?*

**Rep. Marks:** In regard to issuing permits in a timely manner, I agree it should be done. I did find out that the money from the permit fee is divided with \$10 going to the Department and the rest to the general fund. There needs to be more staff to reduce the back log.

**TT:** *LD 223 raises the minimum age to obtain a CHP from 18 to 21. This would have the effect of denying the right to carry to quite a lot of 18-, 19- and 20-year olds. What would happen to the permits already issued to adults in that age range? Would there be any compensating benefit to the community of CHP holders for the loss of carry rights for young adults?*

**Rep. Marks:** As you already know an 18 to 21 year old cannot purchase a handgun or ammo [From a licensed dealer; private sales are lawful. – Ed.]. Does not make sense that they can carry concealed some other persons handgun. Not to mention they cannot become a police officer or even drink alcohol at that age. The jails are full of that age group not making the right decisions. Mental health experts say that the cognitive brain is not yet fully developed at that age. Now the military question I always hear about. I do not have a problem with amending it to include active military because of the training.

When we are dealing with other states and reciprocity we could carry in more if we had the same age requirements. Other states do not

want to deal with us because we allow 18-year-olds to carry possibly circumventing their state laws.

I don't have an answer for the persons who already hold, I would say grandfather them if we could.

**TT:** *LD 771 deals with nonresident Maine CHPs, and it does two things. First, it would limit the validity of a nonresident Maine CHP to within the State of Maine. Second, it would prohibit the State from entering into any reciprocity agreement with another state in which a Maine nonresident permit may be used as the basis for the issuance of a similar permit in another state. Can you explain what problems this bill is meant to address?*

**Rep. Marks:** The problem is that non residents abuse the system and obtain a Maine permit to get around their own states stricter standard. Some of these persons never set foot in Maine. For example in another state where the age limit is 21. That person gets a Maine Permit at 18 and circumvents his own states 21 year age rule. Because of the reciprocity agreement its legal. Another example that drives law enforcement crazy. A gang member or the whole gang in another state obtains Maine permits so they can carry concealed in their home state where their home state would prohibit it. I think the best approach would be if your are a non resident and you want a Maine permit get one in your home state and we will give you one in Maine, that way no circumventing.

**TT:** *LD 958 would create a database of persons admitted or committed involuntarily to mental institutions, to be used for the purpose of the issuance of CHPs. How much time would this save in the background check for a CHP?*

**Rep. Marks:** Not sure how much time it would save. Like I mentioned above it is a hold up.

There is a waiver to have a persons medical records released which is a hurdle. It does not make sense to me have to ask for information from mental health, if there was a data base of persons prohibited we could speed it up and not have to ask. I understand that there are HIPPA rules and regs that have to be dealt with.

**TT:** *Returning to the big picture, some people do not believe any sort of permit should be necessary to carry a firearm. The states of Arizona, Alaska, Wyoming and Vermont all are "Constitutional Carry" states. Would you favor this sort of approach for Maine?*

**Rep. Marks:** If everyone was responsible it would be no problem. I would not favor everyone except for convicted felons carrying a concealed weapon legally. There are just too many people like drug dealers, drug users, drunks, people with mental illness who would be able to carry. Citizen's lives would be in jeopardy along with police. Where would the training come from? You're 21 so now you can pack heat, no background, no proficiency, I do not think its a good idea. The system we have is not perfect, I am trying to make it better.

I understand the Governor has some proposals that he is considering that may mirror some of mine. We will wait and see.

**TT:** *Thank you for taking the time to talk with us.*

---

*Todd Tolhurst is a licensed firearms dealer, NRA certified pistol instructor, and member of the Board of Directors of the Gun Owners of Maine, Inc.*