

SENATE BILL NO. 210

INTRODUCED BY V. JACKSON

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCEPTION TO THE OFFENSE OF CARRYING A CONCEALED WEAPON FOR LEGISLATORS IN THE STATE CAPITOL WHO HAVE BEEN ISSUED A CONCEALED WEAPON PERMIT; AND AMENDING SECTIONS 45-8-317, 45-8-328, AND 45-8-351, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 45-8-317, MCA, is amended to read:

**"45-8-317. Exceptions.** (1) Section 45-8-316 does not apply to:

- (a) any peace officer of the state of Montana or of another state who has the power to make arrests;
- (b) any officer of the United States government authorized to carry a concealed weapon;
- (c) a person in actual service as a member of the national guard;
- (d) a person summoned to the aid of any of the persons named in subsections (1)(a) through (1)(c);
- (e) a civil officer or the officer's deputy engaged in the discharge of official business;
- (f) a probation and parole officer authorized to carry a firearm under 46-23-1002;
- (g) a person issued a permit under 45-8-321 or a person with a permit recognized under 45-8-329;
- (h) an agent of the department of justice or a criminal investigator in a county attorney's office;
- (i) a person who is outside the official boundaries of a city or town or the confines of a logging, lumbering, mining, or railroad camp or who is lawfully engaged in hunting, fishing, trapping, camping, hiking, backpacking, farming, ranching, or other outdoor activity in which weapons are often carried for recreation or protection;
- (j) the carrying of arms on one's own premises or at one's home or place of business; or
- (k) the carrying of a concealed weapon in the state capitol by a legislator or a legislative security officer who has been issued a permit under 45-8-321 or with a permit recognized under 45-8-329.

(2) With regard to a person issued a permit under 45-8-321, the provisions of 45-8-328 do not apply to this section."

**Section 2.** Section 45-8-328, MCA, is amended to read:

**"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except for legislative



1 ~~security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k), a~~ A  
 2 person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or  
 3 knowingly carries a concealed weapon in:

4 (a) except as provided in subsection (2), portions of a building used for state or local government offices  
 5 and related areas in the building that have been restricted;

6 (b) a bank, credit union, savings and loan institution, or similar institution during the institution's normal  
 7 business hours. It is not an offense under this section to carry a concealed weapon while:

8 (i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or

9 (ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person  
 10 is inside the enclosure used for the institution's financial services or is using the institution's financial services.

11 (c) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued  
 12 under Title 16 for the sale of alcoholic beverages for consumption on the premises.

13 (2) A legislator or a legislative security officer is authorized to carry a concealed weapon in the state  
 14 capitol as provided in 45-8-317(1)(k).

15 ~~(2)~~(3) It is not a defense that the person had a valid permit to carry a concealed weapon. A person  
 16 convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an  
 17 amount not to exceed \$500, or both."

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19 **Section 3.** Section 45-8-351, MCA, is amended to read:

20 **"45-8-351. Restriction on local government regulation of firearms.** (1) Except as provided in  
 21 subsection (2), a county, city, town, consolidated local government, or other local government unit may not  
 22 prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in purchase, sale,  
 23 or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon, including  
 24 a rifle, shotgun, handgun, or concealed handgun.

25 (2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and  
 26 handguns. A county, city, town, consolidated local government, or other local government unit has power to  
 27 prevent and suppress the carrying of concealed or unconcealed weapons to a public assembly, publicly owned  
 28 building, park under its jurisdiction, or school, and the possession of firearms by convicted felons, adjudicated  
 29 mental incompetents, illegal aliens, and minors.

30 (b) Nothing contained in this section allows any government to prohibit the legitimate display of firearms

1 at shows or other public occasions by collectors and others or to prohibit the legitimate transportation of firearms  
2 through any jurisdiction, whether in airports or otherwise.

3 (c) A local ordinance enacted pursuant to this section may not prohibit a legislator or legislative security  
4 officer who has been issued a concealed weapon permit from carrying a concealed weapon in the state capitol  
5 as provided in 45-8-317."

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