

SENATE BILL NO. 184

INTRODUCED BY BUTCHER, ANDERSON, BLACK, FISHER, GEBHARDT, HAINES, HEDGES, KASTEN,
 KEENAN, LAIBLE, LEHMAN, MCGEE, PATTISON, RIPLEY, SINRUD, STORY, TAYLOR, B. THOMAS,
 PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME DURING WHICH A CONCEALED WEAPON PERMIT IS VALID FROM 4 YEARS, WITH RENEWAL ALLOWED EVERY 4 YEARS, TO THE LIFETIME OF THE HOLDER, WITH RENEWAL REQUIRED EVERY 8 YEARS; REQUIRING A BACKGROUND CHECK EVERY 4 YEARS; SUBSTITUTING A HANDGUN SAFETY COURSE FOR A HUNTER EDUCATION OR SAFETY COURSE AS A METHOD OF DEMONSTRATING FAMILIARITY WITH FIREARMS; AMENDING SECTIONS 45-8-321; AND 45-8-322, ~~45-8-323, 45-8-324, AND 45-8-326~~, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 45-8-321, MCA, is amended to read:

"45-8-321. Permit to carry concealed weapon. (1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for ~~4 years from the date of issuance~~ the life of the applicant IF THE PERMIT IS RENEWED EVERY 8 YEARS AND THE RENEWAL IS NOT DENIED. An applicant must be a United States citizen who is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the applicant:

- (a) is ineligible under Montana or federal law to own, possess, or receive a firearm;
- (b) has been charged and is awaiting judgment in any state or federal crime that is punishable by incarceration for 1 year or more;
- (c) has been convicted in any state or federal court of a crime punishable by more than 1 year of incarceration or, regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide, violence, bodily or serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent;
- (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years

have elapsed since the date of the conviction;

(e) has a warrant of any state or the federal government out for the applicant's arrest;

(f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is otherwise under state supervision;

(g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill, mentally defective, or mentally disabled and is still subject to a disposition order of that court; or

(h) was dishonorably discharged from the United States armed forces.

(2) The sheriff may deny an applicant a permit OR A RENEWAL OF A PERMIT to carry a concealed weapon if the sheriff has reasonable cause to believe that the applicant is mentally ill, mentally defective, or mentally disabled or otherwise may be a threat to the peace and good order of the community to the extent that the applicant should not be allowed to carry a concealed weapon. At the time an application OR PERMIT RENEWAL is denied, the sheriff shall, unless the applicant OR PERMITTEE is the subject of an active criminal investigation, give the applicant OR PERMITTEE a written statement of the reasonable cause upon which the denial is based.

(3) An applicant for a permit under this section must, as a condition to issuance of the permit, be required by the sheriff to demonstrate familiarity with a firearm by:

(a) completion of a ~~hunter education or~~ HANDGUN safety course approved or conducted by the department of fish, wildlife, and parks or a similar agency of another state;

(b) completion of a firearms safety or training course approved or conducted by the department of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement agency, an institution of higher education, or an organization that uses instructors certified by a national firearms association;

(c) completion of a law enforcement firearms safety or training course offered to or required of public or private law enforcement personnel and conducted or approved by a law enforcement agency;

(d) possession of a license from another state to carry a firearm, concealed or otherwise, that is granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or

(e) evidence that the applicant, during military service, was found to be qualified to operate firearms, including handguns.

(4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other

document that attests to completion of the course and can be verified through contact with the entity or instructor that conducted the course creates a presumption that the applicant has completed a course described in subsection (3).

(5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity with a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff or of any person or entity to which the sheriff delegates authority to give the test, a physical test in which the applicant demonstrates the applicant's familiarity with a firearm."

Section 2. Section 45-8-322, MCA, is amended to read:

"45-8-322. Application, ~~renewal~~, RENEWAL, permit, and fees. (1) The application form must be readily available at the sheriff's office and must read as follows:

CONCEALED WEAPON PERMIT APPLICATION

To be completed by each person making application:

RESIDENT OF MONTANA AT LEAST 6 MONTHS	() Yes	() No
CITIZEN OF THE UNITED STATES	() Yes	() No
18 YEARS OF AGE OR OLDER	() Yes	() No

PLEASE TYPE OR PRINT

Full name:

Last	First	Middle
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Alias/Maiden/Nickname:

Address: Home: Zip

Employer: Zip

Phone: / /

Home	Employer	Message
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Place of birth:..... Date of birth:

Driver's license #: Issuing state:

Social Security #:

Sex Ht. Wt. Eyes Hair

LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE LAST 5 YEARS:

Employer or business name	Address	Dates of employment
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- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST 5 YEARS:

	City	State	Dates of residence
1.
2.
3.
4.
5.
6.

MILITARY SERVICE, BRANCH FROM TO

TYPE OF DISCHARGE RANK UPON DISCHARGE

HAVE YOU EVER BEEN ARRESTED FOR OR CONVICTED OF A CRIME OR FOUND GUILTY IN A COURT-MARTIAL PROCEEDING?

() YES () NO

IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic violations) (Attach additional sheet if necessary):

	City	State	Charge	Date
1.
2.
3.
4.
5.

LIST THREE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5 YEARS THAT WILL BE CREDIBLE WITNESSES TO YOUR GOOD MORAL CHARACTER AND PEACEABLE DISPOSITION (DO NOT include relatives or present/past employers):

Name	Address	Phone
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- 1.
- 2.
- 3.

PLEASE EXPLAIN YOUR REASONS FOR REQUESTING THIS PERMIT (Attach additional sheet if necessary):

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I, the undersigned applicant, swear that the foregoing information is true and correct to the best of my knowledge and belief and is given with the full knowledge that any misstatement may be sufficient cause for denial or revocation of a permit to carry a concealed weapon. I authorize any person having information concerning me that relates to the information requested by this application and the requirements for a concealed weapon permit, either public record or otherwise, to furnish it to the sheriff to whom this application is made.

.....

Signature

.....

Date of application

This application must be signed in the presence of the sheriff or a designee.

(2) The application must be in triplicate. The applicant must be given the original at the time the completed application is filed with the sheriff, the sheriff shall keep a copy ~~for at least 4 years~~ until the applicant dies, and a copy must, within 7 days of the sheriff's receipt of the application, be mailed to the chief of police if the applicant resides in a city or town with a police force.

(3) The fee for issuance of a permit is \$50. ~~The permit must be renewed for additional 4-year periods upon payment of a \$25 fee per renewal and upon request for renewal made within 90 days before expiration of the permit.~~ THE PERMIT MUST BE RENEWED FOR ADDITIONAL 8-YEAR PERIODS UPON PAYMENT OF A \$25 FEE FOR EACH RENEWAL AND UPON REQUEST FOR RENEWAL MADE WITHIN 90 DAYS BEFORE EXPIRATION OF THE PERMIT. The permit ~~and each renewal~~ AND EACH RENEWAL must be in triplicate, in a form prescribed by the department of justice, and must at a minimum include the DATE OF ISSUANCE AND THE name, address, physical description, signature, driver's

license or state identification card number, and a picture of the permittee. A person in the United States armed forces satisfies the requirement of submitting a picture if the person submits pictures of the front of the person's military identification card and the person's Montana driver's license. The permit must state that federal and state laws on possession of firearms and other weapons differ and that a person who violates the federal law may be prosecuted in federal court and the Montana permit will not be a defense. The permittee must be given the original, and the sheriff shall keep a copy and send a copy to the department of justice, which shall keep a central repository record of all permits. Replacement of a lost permit must be treated as ~~a renewal~~ an original application A RENEWAL under this subsection.

(4) The sheriff shall conduct a background check of an applicant to determine whether the applicant is eligible for a permit under 45-8-321, may require an applicant to submit the applicant's fingerprints, and may charge the applicant \$5 for fingerprinting. TO ENSURE THAT THE PERMIT REMAINS COMPLIANT WITH FEDERAL REQUIREMENTS PURSUANT TO 45-8-330, FOR AS LONG AS IT IS NECESSARY TO DO SO TO COMPLY WITH FEDERAL REQUIREMENTS, THE SHERIFF SHALL CONDUCT A BACKGROUND CHECK ON THE PERMITHOLDER EVERY 4 YEARS FROM THE DATE OF ISSUANCE OF THE PERMIT.

(5) Permit, background, and fingerprinting fees may be retained by the sheriff and used to implement 45-8-321 through 45-8-325.

(6) A state or local government law enforcement agency or other agency or any of its officers or employees may not request a permittee to voluntarily submit information in addition to that required on an application and permit."

~~Section 3.~~ Section 45-8-323, MCA, is amended to read:

~~"45-8-323. Denial of renewal -- revocation Revocation of permit. A permit to carry a concealed weapon may be revoked or its renewal denied by the sheriff of the county in which the permittee resides if circumstances arise that would require the sheriff to refuse to grant the permittee an original license."~~

~~Section 4.~~ Section 45-8-324, MCA, is amended to read:

~~"45-8-324. Appeal. The denial or revocation of a permit to carry a concealed weapon or refusal of a renewal is subject to appeal to the district court, which may consider and determine facts as well as law and which is not bound by any factual, legal, or other determination of the sheriff, and from that court to the Montana supreme court. To the extent applicable, Title 25, chapter 33, governs the appeal."~~

~~Section 5.~~ Section 45-8-326, MCA, is amended to read:

~~"45-8-326. Immunity from liability. A sheriff, employee of a sheriff's office, or county is not liable for damages in a civil action by a person or entity claiming death, personal injury, or property damage arising from alleged wrongful or improper grant of, renewal of, or failure to revoke a permit to carry a concealed weapon, except for actions that constitute willful misconduct or gross negligence."~~

NEW SECTION. **Section 3. Applicability.** [This act] applies to permits granted or renewed after [the effective date of this act].

- END -

