

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CONCEALED CARRY OF FIREARMS
5 LAWS; PROHIBITING CONCEALED CARRY OF FIREARMS BY PERSONS PROHIBITED UNDER STATE
6 AND FEDERAL LAW; PROHIBITING LOCAL GOVERNMENTS FROM REGULATING THE CARRYING OF
7 CONCEALED OR UNCONCEALED WEAPONS IN PUBLIC BUILDINGS; AMENDING SECTIONS 45-8-316,
8 45-8-321, AND 45-8-351, MCA; AND REPEALING SECTIONS 45-8-317 AND 45-8-328, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 45-8-316, MCA, is amended to read:

13 **"45-8-316. Carrying concealed firearms.** (1) A person who carries or bears concealed upon the
14 individual's person a firearm that the person is prohibited under state or federal law from possessing shall be
15 punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6
16 months, or both.

17 (2) A person who has previously been convicted of an offense, committed on a different occasion
18 than the offense under this section, in this state or any other jurisdiction for which a sentence to a term of
19 imprisonment in excess of 1 year could have been imposed and who carries or bears concealed upon the
20 individual's person a firearm shall be punished by a fine not exceeding \$1,000 or be imprisoned in the state
21 prison for a period not exceeding 5 years, or both."

22
23 **Section 2.** Section 45-8-321, MCA, is amended to read:

24 **"45-8-321. Permit to carry concealed weapon.** (1) A county sheriff shall, within 60 days after the
25 filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4
26 years from the date of issuance. An applicant must be a United States citizen or permanent lawful resident who
27 is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued
28 by the state that has a picture of the person identified. An applicant must have been a resident of the state for

1 at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless
2 the applicant:

3 (a) is ineligible under Montana or federal law to own, possess, or receive a firearm;

4 (b) has been charged and is awaiting judgment in any state or federal crime that is
5 punishable by incarceration for 1 year or more;

6 (c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:

7 (i) a crime punishable by more than 1 year of incarceration; or

8 (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime
9 an act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or
10 sexual intercourse or contact without consent;

11 (d) has been convicted under 45-8-327 or ~~45-8-328~~, unless the applicant has been pardoned or 5
12 years have elapsed since the date of the conviction;

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

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

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

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

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

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

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

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

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

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

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

13 (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from
14 the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other
15 document that attests to completion of the course and can be verified through contact with the entity or
16 instructor that conducted the course creates a presumption that the applicant has completed a course
17 described in subsection (3).

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

22 (6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony
23 and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to
24 issuance of a concealed weapons permit if otherwise eligible."
25

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

27 **"45-8-351. Restriction on local government regulation of firearms.** (1) Except as provided in
28 subsection (2), a county, city, town, consolidated local government, or other local government unit may not

1 prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in purchase, sale,
2 or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon,
3 including a rifle, shotgun, handgun, or concealed handgun.

4 (2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and
5 handguns. ~~A county, city, town, consolidated local government, or other local government unit has power to
6 prevent and suppress the carrying of unpermitted concealed weapons or the carrying of unconcealed weapons
7 to a publicly owned and occupied building under its jurisdiction.~~

8 (b) Nothing contained in this section allows any government to prohibit the legitimate display of
9 firearms at shows or other public occasions by collectors and others or to prohibit the legitimate transportation
10 of firearms through any jurisdiction, whether in airports or otherwise.

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

14

15 NEW SECTION. Section 4. Repealer. The following sections of the Montana Code Annotated are
16 repealed:

17 45-8-317. Exceptions.

18 45-8-328. Carrying concealed weapon in prohibited place -- penalty.

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- END -