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HOUSE BILL NO. 674

INTRODUCED BY K. SEEKINS-CROWE, K. ZOLNIKOV, P. FIELDER, L. BREWSTER, N. NICOL, S. GALLOWAY, R. MARSHALL, M. HOPKINS, T. BROCKMAN, J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN ENHANCED PERMIT TO CARRY A CONCEALED WEAPON; PROVIDING APPLICATION CRITERIA AND INSTRUCTIONS FOR APPLICANTS AND COUNTY SHERIFFS; CREATING A PERMIT RENEWAL PROCESS; SPECIFYING WHO MAY NOT HOLD AN ENHANCED PERMIT; AMENDING SECTIONS 45-8-328, 45-8-330, AND 45-8-356, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Enhanced permit to carry concealed weapon.** (1) To obtain an optional enhanced permit to carry a concealed weapon, an applicant shall submit an application to the sheriff of the county in which the applicant resides. The permit is valid for 5 years from the date of issuance and may be renewed pursuant to subsection (6).

(2) An application for an enhanced permit must include:

(a) a copy of the applicant's fingerprints for submission to the federal bureau of investigation, or to any government agency or entity authorized to receive the information, for a state, national, and international criminal background check;

(b) an authorization from the applicant to run a fingerprint background check; and

(c) proof that the applicant:

(i) has successfully completed a qualifying handgun course, as defined in subsection (5), within the preceding 12 months; or

(ii) is a current or former law enforcement officer and has, within the preceding 12 months, qualified or requalified on a certified shooting course administered by a firearms instructor approved by ~~the~~ department of justice a law enforcement agency.

(3) An applicant for an enhanced concealed carry permit must be:

- 1 (i) a United States citizen or permanent lawful resident;
- 2 (ii) 21 years of age or older;
- 3 (iii) the holder of a valid Montana driver's license or other form of identification issued by the state
- 4 that has a picture of the person identified; and
- 5 (iv) a resident of the state for at least 6 months on the date of application.

6 (4) A county sheriff who receives an application for an enhanced permit to carry a concealed  
7 weapon shall:

8 (a) ~~forward the copy of the applicant's fingerprints, the applicant's authorization for processing a~~  
9 ~~criminal background check, and the payment for the criminal background check to the criminal records and~~  
10 ~~identification services section of the department of justice for processing~~ conduct or cause to be conducted the  
11 criminal background checks required pursuant to subsection (2);

12 (b) retain the application and other documents until the sheriff receives the results of the  
13 background checks required pursuant to subsection (2); and

14 (c) after receiving satisfactory background check results and verification that an applicant has met  
15 the requirements of subsection (2)(c)(i) or (2)(c)(ii) and subsection (3), issue a permit clearly designated as  
16 enhanced within 60 days after the filing of the application.

17 (5) A qualifying handgun course is any handgun course approved by ~~the department of justice a~~  
18 law enforcement agency that includes instruction in each of the following:

- 19 (a) laws relating to firearms and the use of force;
- 20 (b) the basic concepts of the safe and responsible use of handguns;
- 21 (c) self-defense principles; and
- 22 (d) live fire training, including the firing of at least 98 rounds of ammunition by the student.

23 (6) A person who holds an enhanced permit to carry a concealed weapon may renew the permit  
24 through the sheriff of the county in which the person resides. The period for renewal begins 180 days before the  
25 permit expires and ends 30 days after the permit expires. To renew an enhanced permit, a person shall:

- 26 (a) pass a criminal background check; and
- 27 (b) present proof that:
  - 28 (i) during the period of renewal, the applicant successfully completed a live fire component of a

1 qualifying handgun course pursuant to subsection (5)(d); or

2 (ii) the applicant is a current or former law enforcement officer and has, within the preceding 12  
3 months, qualified or requalified on a certified shooting course administered by a firearms instructor approved by  
4 ~~the department of justice~~ a law enforcement agency.

5 (7) (a) If a person fails to renew an enhanced permit to carry a concealed weapon during the  
6 period set forth in subsection (6), the enhanced permit is deemed to be invalid.

7 (b) To obtain an enhanced permit after a previous enhanced permit has become invalid, a person  
8 shall submit a new application and meet all requirements for an initial enhanced permit.

9 (8) Except as provided in subsection (9), an enhanced permit to carry a concealed weapon may  
10 not be denied to a qualified applicant unless the applicant:

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

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

14 (c) subject to the provisions of subsection (10), has been convicted in any state or federal court of:

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

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

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

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

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

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

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

1 (9) A county sheriff may deny an applicant an enhanced permit to carry a concealed weapon if the  
2 sheriff has reasonable cause to believe that the applicant is mentally ill, mentally disordered, or mentally  
3 disabled or otherwise may be a threat to the peace and good order of the community to the extent that the  
4 applicant should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff  
5 shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written  
6 statement of the reasonable cause on which the denial is based.

7 (10) Except for a person referred to in subsection (8)(c)(ii), a person who has been convicted of a  
8 felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is  
9 entitled to issuance of an enhanced concealed weapons permit if otherwise eligible.

10 (11) The fee for issuance of an enhanced permit is \$75.

11 (12) The sheriff of the county in which the permittee resides may revoke the enhanced permit or  
12 deny its renewal under 45-8-323.

13 (13) A denial or revocation of an enhanced permit or a refusal to renew an enhanced permit may be  
14 appealed under 45-8-324.

15 (14) The immunity from liability provided under 45-8-326 applies to the grant of, renewal of, or  
16 failure to revoke an enhanced permit.

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

19 **"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except for a person  
20 issued a permit pursuant to 45-8-321 or [section 1] or a person recognized pursuant to 45-8-329, a person  
21 commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly  
22 carries a concealed weapon in portions of a building used for state or local government offices and related  
23 areas in the building that have been restricted.

24 (2) A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed  
25 6 months or fined an amount not to exceed \$500, or both."  
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27 **Section 3.** Section 45-8-330, MCA, is amended to read:

28 **"45-8-330. (Temporary) Exemption of concealed weapon permittee from federal handgun**

1 **purchase background check and waiting period.** A person possessing a concealed weapon permit or an  
2 enhanced concealed weapon permit is:

3 (1) considered to have a permit constituting completion of the background check required by 18  
4 U.S.C. 921 through 925A; and

5 (2) exempt from that act's 5-day waiting period for the purchase of a handgun. (Subsections (1)  
6 and (2) terminate contingent on the elimination of federal statutory or case law requirements--sec. 5, Ch. 408,  
7 L. 1995.)"

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9 **Section 4.** Section 45-8-356, MCA, is amended to read:

10 **"45-8-356. Where concealed weapon may be carried -- exceptions.** A person with a current and  
11 valid permit issued pursuant to 45-8-321 or [section 1] or recognized pursuant to 45-8-329 may not be  
12 prohibited or restricted from exercising that permit anywhere in the state, except:

13 (1) in a correctional, detention, or treatment facility operated by or contracted with the department  
14 of corrections or a secure treatment facility operated by the department of public health and human services;

15 (2) in a detention facility or secure area of a law enforcement facility owned and operated by a city  
16 or county;

17 (3) at or beyond a security screening checkpoint regulated by the transportation security  
18 administration in a publicly owned, commercial airport;

19 (4) in a building owned and occupied by the United States;

20 (5) on a military reservation owned and managed by the United States;

21 (6) on private property where the owner of the property or the person who possesses or is in  
22 control of the property, including a tenant or lessee of the property, expressly prohibits firearms;

23 (7) within a courtroom or an area of a courthouse in use by court personnel pursuant to an order of  
24 a justice of the peace or judge; or

25 (8) in a school building as determined by a school board pursuant to 45-8-361."

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27 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an  
28 integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [section 1].