

HOUSE BILL NO. 825

INTRODUCED BY D. BROWN, DRISCOLL, STRIZICH, CLARK,
JACOBSON, LYNCH, DARKO, DAILY, PAVLOVICH, MENAHAN, QUILICI,
ELLISON, NATHE, THOMAS, LEE, R. JOHNSON, HOFFMAN, GILBERT,
R. DEBRUYCKER, KELLER, J. RICE, HAYNE, PETERSON

IN THE HOUSE

FEBRUARY 13, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FEBRUARY 14, 1991 FIRST READING.

FEBRUARY 22, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 23, 1991 PRINTING REPORT.

FEBRUARY 25, 1991 SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

FEBRUARY 26, 1991 THIRD READING, PASSED.
AYES, 92; NOES, 7.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

APRIL 4, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 5, 1991 SECOND READING, CONCURRED IN.

APRIL 6, 1991 THIRD READING, CONCURRED IN.
AYES, 44; NOES, 5.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS NOT

CONCURRED IN.

APRIL 11, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 22, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 23, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 24, 1991

FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *825*
 2 INTRODUCED BY *Don Bryan, David J. Clark, Richard*
 3 *Marko Vack, Carl Witt, Matthew D. Linder*
 4 *Ellison* A BILL FOR AN ACT ENTITLED: *NATH* "AN ACT REVISING THE LAW
 5 RELATING TO THE CARRYING OF CONCEALED WEAPONS; AMENDING
 6 SECTIONS 45-8-315, 45-8-317, AND 45-8-351, MCA; AND
 7 REPEALING SECTION 45-8-319, MCA."
 8

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

10 NEW SECTION. Section 1. Permit to carry concealed
 11 weapon. (1) A county sheriff shall, within 60 days after the
 12 filing of an application, issue a permit to carry a
 13 concealed weapon to the applicant. The permit is valid for 2
 14 years from the date of issuance. An applicant must be a
 15 United States citizen 18 years of age or older who holds a
 16 valid Montana driver's license or other form of
 17 identification issued by the state that has a picture of the
 18 person identified. An applicant must have been a resident of
 19 the state for at least 6 months. This privilege may not be
 20 denied an applicant unless the applicant:

- 21 (a) is ineligible under Montana or federal law to own,
- 22 possess, or receive a firearm;
- 23 (b) has been charged and is awaiting judgment in any
- 24 state of a state or federal crime that is punishable by
- 25 incarceration for 1 year or more;

1 (c) has been convicted in any state or federal court in
 2 any state of a crime punishable by more than 1 year of
 3 incarceration or, regardless of the sentence that may be
 4 imposed, a crime that includes as an element of the crime an
 5 act, attempted act, or threat of intentional homicide,
 6 violence, bodily or serious bodily harm, unlawful restraint,
 7 sexual abuse, or sexual intercourse or contact without
 8 consent, unless the applicant has been pardoned or 3 years
 9 have elapsed since the date of the conviction and the
 10 applicant is no longer under state or federal supervision
 11 for the crime;

12 (d) has been convicted under [section 7 or 8], unless
 13 he has been pardoned or 5 years have elapsed since the date
 14 of the conviction;

15 (e) has a warrant of any state or the federal
 16 government out for his arrest;

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

24 (g) has been adjudicated in a criminal or civil
 25 proceeding in a court of any state or in a federal court to



-2- INTRODUCED BILL
 HB 825

1 be mentally ill, mentally defective, or mentally disabled
2 and is still subject to a disposition order of that court or
3 unless the sheriff has probable cause to believe that the
4 applicant is mentally ill, mentally defective, or mentally
5 disabled to the extent that the applicant should not be
6 allowed to carry a concealed weapon; or

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

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

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

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

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

1 (d) possession of a license from another state to carry
2 a firearm, concealed or otherwise, that is granted by that
3 state upon completion of a course described in subsections
4 (2)(a) through (2)(c).

5 (3) A photocopy of a certificate of completion of a
6 course described in subsection (2), an affidavit from the
7 entity or instructor that conducted the course attesting to
8 completion of the course, or a copy of any other document
9 that attests to completion of the course and can be verified
10 through contact with the entity or instructor that conducted
11 the course creates a presumption that the applicant has
12 completed a course described in subsection (2).

13 NEW SECTION. **Section 2. Application, renewal, permit,**
14 **and fees.** (1) The application form must be readily available
15 at the sheriff's office and must read as follows:

16 **CONCEALED WEAPON PERMIT APPLICATION**

17 To be completed by each person making application:

18 RESIDENT OF MONTANA AT LEAST 6 MONTHS () Yes () No
19 CITIZEN OF THE UNITED STATES () Yes () No
20 18 YEARS OF AGE OR OLDER () Yes () No

21 PLEASE TYPE OR PRINT

22 Full name:

23 Last First Middle

24 Alias/Maiden/Nickname:

25 Address: Home: Zip

1 Employer: Zip

2 Phone:/...../.....

3 Home Employer Message

4 Place of birth: Date of birth:

5 Driver's license #: Issuing state:

6 Social Security #: Sex

7 Ht. Wt. Eyes Hair

8 Spouse's name: Date of birth:

9 Spouse's maiden name:

10 Spouse's address if different from yours:

11 Spouse's place of employment:

12 Father's name & address:

13 Mother's name & address:

14 LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE

15 LAST 5 YEARS:

16 Employer or

17 business name Address Number of years

18 1.

19 2.

20 3.

21 4.

22 5.

23 6.

24 LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST 15

25 YEARS:

1 City State Number of years

2 1.

3 2.

4 3.

5 4.

6 5.

7 6.

8 MILITARY SERVICE, BRANCH FROM TO

9 TYPE OF DISCHARGE RANK UPON DISCHARGE

10 HAVE YOU EVER BEEN ARRESTED OR COURT-MARTIALED?

11 () YES () NO

12 IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic

13 violations)

14 (Attach additional sheet if necessary):

15 City State Charge Date

16 1.

17 2.

18 3.

19 4.

20 5.

21 LIST FIVE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5 YEARS

22 THAT WILL BE CREDIBLE WITNESSES TO YOUR GOOD MORAL CHARACTER

23 AND PEACEABLE DISPOSITION (DO NOT include relatives or

24 present/past employers):

25 Name Address Phone

1 1.
 2 2.
 3 3.
 4 4.
 5 5.
 6 IN COMPLETE DETAIL, PLEASE EXPLAIN YOUR REASONS FOR
 7 REQUESTING THIS PERMIT (Attach additional sheet if
 8 necessary):
 9
 10
 11
 12
 13
 14
 15 I, the undersigned applicant, swear that the foregoing
 16 information is true and correct to the best of my knowledge
 17 and belief and is given with the full knowledge that any
 18 misstatement contained herein may be sufficient cause for
 19 denial or revocation of a permit to carry a concealed
 20 weapon. I hereby authorize any person having information
 21 concerning me that relates to the information requested by
 22 this application and the requirements for a concealed weapon
 23 permit, either public record or otherwise, to furnish it to
 24 the sheriff to whom this application is made.
 25

1 Signature
 2 Sworn to and subscribed before me, a Notary Public, this
 3 day of, 19.....
 4
 5 Notary Public for the State of
 6 Montana. Residing at:
 7 SEAL My commission expires:
 8 (2) The application must be in triplicate. The
 9 applicant must be given the original at the time the
 10 completed application is filed with the sheriff, the sheriff
 11 shall keep a copy for at least 2 years, and a copy must,
 12 within 7 days of the sheriff's receipt of the application,
 13 be mailed to the chief of police if the applicant resides in
 14 a city or town with a police force.
 15 (3) The fee for issuance of a permit is \$50. The permit
 16 must be renewed for additional 2-year periods upon payment
 17 of a \$25 fee per renewal and upon request for renewal made
 18 within 90 days before expiration of the permit. The permit
 19 and each renewal must be in triplicate, in a form prescribed
 20 by the department of justice, and must at a minimum include
 21 the name, address, physical description, signature, driver's
 22 license or state identification card number, and a picture
 23 of the permittee. The permit must state that federal and
 24 state laws on possession of firearms and other weapons
 25 differ and that a person who violates the federal law may be

1 prosecuted in federal court and the Montana permit will not
 2 be a defense. The permittee must be given the original, and
 3 the sheriff shall keep a copy and send a copy to the
 4 department of justice, which shall keep a central repository
 5 record of all permits.

6 (4) The sheriff shall conduct a criminal record and
 7 background check of an applicant who has not submitted a
 8 prior application to the sheriff, may require an applicant
 9 to submit his fingerprints, and may charge the applicant for
 10 the cost of the background check and \$5 for fingerprinting.

11 (5) Permit, background, and fingerprinting fees may be
 12 retained by the sheriff and used to implement [sections 1
 13 through 5].

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

18 NEW SECTION. Section 3. Denial of renewal --
 19 revocation of permit. A permit to carry a concealed weapon
 20 may be revoked or its renewal denied by the sheriff of the
 21 county in which it was issued if circumstances arise that
 22 would require the sheriff to refuse to grant the permittee
 23 an original license.

24 NEW SECTION. Section 4. Appeal. The denial or
 25 revocation of a permit to carry a concealed weapon or

1 refusal of a renewal is subject to appeal to the district
 2 court and from that court to the Montana supreme court.

3 NEW SECTION. Section 5. Permittee change of county of
 4 residence -- notification to sheriffs and chief of police. A
 5 person with a permit to carry a concealed weapon who changes
 6 his county of residence shall within 10 days of the change
 7 inform the sheriffs of both the old and new counties of
 8 residence of his change of residence and that he holds the
 9 permit. If his residence changes either from or to a city or
 10 town with a police force, he shall also inform the chief of
 11 police in each of those cities or towns that has a police
 12 force.

13 NEW SECTION. Section 6. Immunity from liability. A
 14 sheriff, employee of a sheriff's office, or county is not
 15 liable for damages in a civil action by a person or entity
 16 claiming death, personal injury, or property damage arising
 17 from alleged wrongful or improper grant, renewal, or failure
 18 to revoke a permit to carry a concealed weapon.

19 NEW SECTION. Section 7. Carrying a concealed weapon
 20 while under the influence. A person commits the offense of
 21 carrying a concealed weapon while under the influence if he
 22 purposely or knowingly carries a concealed weapon while
 23 under the influence of an intoxicating substance. It is not
 24 a defense that the person had a valid permit to carry a
 25 concealed weapon. A person convicted of the offense shall be

1 imprisoned in the county jail for a term not to exceed 6
2 months or fined an amount not to exceed \$500, or both.

3 NEW SECTION. Section 8. Carrying a concealed weapon in
4 a prohibited place. (1) A person commits the offense of
5 carrying a concealed weapon in a prohibited place if he
6 purposely or knowingly carries a concealed weapon in:

7 (a) a building owned or leased by the federal, state,
8 or local government;

9 (b) a bank, credit union, savings and loan institution,
10 or similar institution; or

11 (c) a room in which full meals are not served and
12 alcoholic beverages are sold, dispensed, and consumed under
13 a license issued under Title 16 for the sale of alcoholic
14 beverages for consumption on the premises.

15 (2) It is not a defense that the person had a valid
16 permit to carry a concealed weapon. A person convicted of
17 the offense shall be imprisoned in the county jail for a
18 term not to exceed 6 months or fined an amount not to exceed
19 \$500, or both.

20 **Section 9.** Section 45-8-315, MCA, is amended to read:

21 "~~45-8-315.~~ **Definition.** "Concealed weapon" ~~shall mean~~
22 means any weapon mentioned in 45-8-316 through ~~45-8-319~~
23 ~~which shall be~~ 45-8-318 and [sections 1 through 8] that is
24 wholly or partially covered by the clothing or wearing
25 apparel of the person ~~so~~ carrying or bearing the weapon."

1 **Section 10.** Section 45-8-317, MCA, is amended to read:

2 "~~45-8-317.~~ **Exceptions.** Section 45-8-316 does not apply
3 to:

4 (1) any peace officer of the state of Montana;

5 (2) any officer of the United States government
6 authorized to carry a concealed weapon;

7 (3) a person in actual service as a national guardsman;

8 (4) a person summoned to the aid of any of the persons
9 named in subsections (1) through (3);

10 (5) a civil officer or his deputy engaged in the
11 discharge of official business;

12 (6) a probation and parole officer authorized to carry
13 a firearm under 46-23-1002;

14 (7) a person authorized by a judge of a district court
15 of this state to carry a weapon issued a permit under
16 [section 1]; or

17 (8) a criminal investigator in the office of the
18 attorney general or in a county attorney's office;

19 (9) a person who is outside the official boundaries of
20 a city or town or the confines of a logging, lumbering,
21 mining, or railroad camp or who is lawfully engaged in
22 hunting, fishing, trapping, camping, hiking, backpacking,
23 farming, ranching, or other outdoor activity in which
24 weapons are often carried for recreation or protection; or

25 ~~(8)~~(10) the carrying of arms on one's own premises or at

1 one's home or place of business."

2 **Section 11.** Section 45-8-351, MCA, is amended to read:

3 "45-8-351. **Restriction on local government regulation**
4 **of firearms.** (1) Except as provided in subsection (2), no
5 county, city, town, consolidated local government, or other
6 local government unit may prohibit, register, tax, license,
7 or regulate the purchase, sale or other transfer (including
8 delay in purchase, sale, or other transfer), ownership,
9 possession, transportation, use, or concealed or unconcealed
10 carrying of any weapon, including a rifle, shotgun, or
11 handgun.

12 (2) (a) For public safety purposes, a city or town may
13 regulate the discharge of rifles, shotguns, and handguns. A
14 county, city, town, consolidated local government, or other
15 local government unit has power to prevent and suppress the
16 carrying of concealed ~~weapons,---the--carrying--of~~ or
17 unconcealed weapons to a public assembly, publicly owned
18 building, park under its jurisdiction, or school, and the
19 possession of firearms by convicted felons, adjudicated
20 mental incompetents, illegal aliens, and minors.

21 (b) Nothing contained herein shall allow any government
22 to prohibit the legitimate display of firearms at shows or
23 other public occasions by collectors and others, nor shall
24 anything contained herein prohibit the legitimate
25 transportation of firearms through any jurisdiction, whether

1 in airports or otherwise."

2 NEW SECTION. **Section 12.** Existing permits. A permit to
3 carry a concealed weapon issued before October 1, 1991, is
4 valid until the expiration date of the permit.

5 NEW SECTION. **Section 13.** Requirements for granting
6 governmental entity immunity from suit. Because [section 6]
7 grants a sheriff, his employees, and the county immunity
8 from suit for injury to person or property, a two-thirds
9 vote of each house of the legislature is required for
10 enactment of [section 6]. If [section 6] is not approved by
11 the required vote, [section 6] is void. The remaining
12 sections of [this act] are valid and remain in effect in all
13 valid applications upon enactment.

14 NEW SECTION. **Section 14.** Repealer. Section 45-8-319,
15 MCA, is repealed.

16 NEW SECTION. **Section 15.** Codification instruction.
17 [Sections 1 through 8] are intended to be codified as an
18 integral part of Title 45, chapter 8, part 3, and the
19 provisions of Title 45, chapter 8, part 3, apply to
20 [sections 1 through 8].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0825, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill revises the law relating to the carrying of concealed weapons.

ASSUMPTIONS:


1. The bill shifts responsibilities from district courts to county sheriffs and is revenue neutral. Therefore, there is no material fiscal impact on state or local governments.

FISCAL IMPACT:

No material impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

No material impact.


ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


DAVE BROWN, PRIMARY SPONSOR DATE
2/20/91

Fiscal Note for HB0825, as introduced

HB 825

HOUSE BILL NO. 825

INTRODUCED BY D. BROWN, DRISCOLL, STRIZICH, CLARK,
JACOBSON, LYNCH, DARKO, DAILY, PAVLOVICH, MENAHAN, QUILICI,
ELLISON, NATHE, THOMAS, LEE, R. JOHNSON, HOFFMAN, GILBERT,
R. DEBRUYCKER, KELLER, J. RICE, HAYNE, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
RELATING TO THE CARRYING OF CONCEALED WEAPONS; AMENDING
SECTIONS 45-8-315, 45-8-317, AND 45-8-351, MCA; AND
REPEALING SECTION 45-8-319, MCA."

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

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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 2
years from the date of issuance. An applicant must be a
United States citizen 18 years of age or older 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. 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;

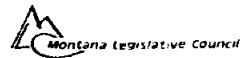
(b) has been charged and is awaiting judgment in any
state of a state or federal crime that is punishable by
incarceration for 1 year or more;

(c) has been convicted in any state or federal court in
any state 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; ~~unless the applicant has been pardoned or 3 years
have elapsed since the date of the conviction and the
applicant is no longer under state or federal supervision
for the crime;~~

(d) has been convicted under [section 7 or 8], unless
he 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 his arrest;

(f) has been adjudicated in a criminal or civil
proceeding in a court of any state or in a 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



1 otherwise under state supervision;

2 (g) has been adjudicated in a criminal or civil
3 proceeding in a court of any state or in a federal court to
4 be mentally ill, mentally defective, or mentally disabled
5 and is still subject to a disposition order of that court or
6 unless the sheriff has probable REASONABLE cause to believe
7 that the applicant is mentally ill, mentally defective, or
8 mentally disabled to the extent that the applicant should
9 not be allowed to carry a concealed weapon; or

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

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

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

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

25 (c) completion of a law enforcement firearms safety or

1 training course offered to or required of public or private
2 law enforcement personnel and conducted or approved by a law
3 enforcement agency; or

4 (d) possession of a license from another state to carry
5 a firearm, concealed or otherwise, that is granted by that
6 state upon completion of a course described in subsections
7 (2)(a) through (2)(c).

8 (3) A photocopy of a certificate of completion of a
9 course described in subsection (2), an affidavit from the
10 entity or instructor that conducted the course attesting to
11 completion of the course, or a copy of any other document
12 that attests to completion of the course and can be verified
13 through contact with the entity or instructor that conducted
14 the course creates a presumption that the applicant has
15 completed a course described in subsection (2).

16 NEW SECTION. Section 2. Application, renewal, permit,
17 and fees. (1) The application form must be readily available
18 at the sheriff's office and must read as follows:

19 CONCEALED WEAPON PERMIT APPLICATION
20 To be completed by each person making application:
21 RESIDENT OF MONTANA AT LEAST 6 MONTHS () Yes () No
22 CITIZEN OF THE UNITED STATES () Yes () No
23 18 YEARS OF AGE OR OLDER () Yes () No

24 PLEASE TYPE OR PRINT
25 Full name:

1 Last First Middle
 2 Alias/Maiden/Nickname:
 3 Address: Home: Zip
 4 Employer: Zip
 5 Phone:/...../.....
 6 Home Employer Message
 7 Place of birth: Date of birth:
 8 Driver's license #: Issuing state:
 9 Social Security #: Sex
 10 Ht. Wt. Eyes Hair
 11 Spouse's name-Date-of-birth-.....
 12 Spouse's maiden name-.....
 13 Spouse's address-if-different-from-yours-.....
 14 Spouse's place-of-employment-.....
 15 Father's name-& address-.....
 16 Mother's name-& address-.....
 17 LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE
 18 LAST 5 YEARS:
 19 Employer or
 20 business name Address Number-of-years
 21 DATES OF EMPLOYMENT
 22 1.
 23 2.
 24 3.
 25 4.

1 5.
 2 6.
 3 LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST ±5 5
 4 YEARS:
 5 City State Number-of-years
 6 DATES OF RESIDENCE
 7 1.
 8 2.
 9 3.
 10 4.
 11 5.
 12 6.
 13 MILITARY SERVICE, BRANCH FROM TO
 14 TYPE OF DISCHARGE RANK UPON DISCHARGE
 15 HAVE YOU EVER BEEN ARRESTED FOR OR COURT-MARTIALED CONVICTED
 16 OF A CRIME OR FOUND GUILTY IN A COURT-MARTIAL PROCEEDING?
 17 () YES () NO
 18 IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic
 19 violations)
 20 (Attach additional sheet if necessary):
 21 City State Charge Date
 22 1.
 23 2.
 24 3.
 25 4.

1 5.
 2 LIST FIVE THREE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5
 3 YEARS THAT WILL BE CREDIBLE WITNESSES TO YOUR GOOD MORAL
 4 CHARACTER AND PEACEABLE DISPOSITION (DO NOT include
 5 relatives or present/past employers):

6	Name	Address	Phone
7	1. ....	.....	.....
8	2. ....	.....	.....
9	3. ....	.....	.....
10	4.-----	-----	-----
11	5.-----	-----	-----

12 IN COMPLETE DETAIL, PLEASE EXPLAIN YOUR REASONS FOR
 13 REQUESTING THIS PERMIT (Attach additional sheet if
 14 necessary):

15
 16
 17
 18
 19
 20

21 I, the undersigned applicant, swear that the foregoing
 22 information is true and correct to the best of my knowledge
 23 and belief and is given with the full knowledge that any
 24 misstatement contained herein may be sufficient cause for
 25 denial or revocation of a permit to carry a concealed

1 weapon. I hereby authorize any person having information
 2 concerning me that relates to the information requested by
 3 this application and the requirements for a concealed weapon
 4 permit, either public record or otherwise, to furnish it to
 5 the sheriff to whom this application is made.

6
 7 Signature
 8

9 DATE OF APPLICATION
 10 THIS APPLICATION MUST BE
 11 SIGNED IN THE PRESENCE OF
 12 THE SHERIFF OR HIS DESIGNEE.

13 Sworn to and subscribed before me, a Notary Public, this
 14 day of, 19.....

15
 16 Notary Public for the State of
 17 Montana. Residing at:
 18 SEAL My commission expires:

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

1 (3) The fee for issuance of a permit is \$50. The permit
 2 must be renewed for additional 2-year periods upon payment
 3 of a \$25 fee per renewal and upon request for renewal made
 4 within 90 days before expiration of the permit. The permit
 5 and each renewal must be in triplicate, in a form prescribed
 6 by the department of justice, and must at a minimum include
 7 the name, address, physical description, signature, driver's
 8 license or state identification card number, and a picture
 9 of the permittee. The permit must state that federal and
 10 state laws on possession of firearms and other weapons
 11 differ and that a person who violates the federal law may be
 12 prosecuted in federal court and the Montana permit will not
 13 be a defense. The permittee must be given the original, and
 14 the sheriff shall keep a copy and send a copy to the
 15 department of justice, which shall keep a central repository
 16 record of all permits. REPLACEMENT OF A LOST PERMIT MUST BE
 17 TREATED AS A RENEWAL UNDER THIS SUBSECTION.

18 (4) The sheriff shall conduct a criminal record and
 19 background check of an applicant who has not submitted a
 20 prior application to the sheriff, may require an applicant
 21 to submit his fingerprints, and may charge the applicant for
 22 the cost of the background check and \$5 for fingerprinting.

23 (5) Permit, background, and fingerprinting fees may be
 24 retained by the sheriff and used to implement [sections 1
 25 through 5].

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

5 NEW SECTION. Section 3. Denial of renewal --
 6 revocation of permit. A permit to carry a concealed weapon
 7 may be revoked or its renewal denied by the sheriff of the
 8 county in which it--was--issued THE PERMITTEE RESIDES if
 9 circumstances arise that would require the sheriff to refuse
 10 to grant the permittee an original license.

11 NEW SECTION. Section 4. Appeal. The denial or
 12 revocation of a permit to carry a concealed weapon or
 13 refusal of a renewal is subject to appeal to the district
 14 court and from that court to the Montana supreme court.

15 NEW SECTION. Section 5. Permittee change of county of
 16 residence -- notification to sheriffs and chief of police. A
 17 person with a permit to carry a concealed weapon who changes
 18 his county of residence shall within 10 days of the change
 19 inform the sheriffs of both the old and new counties of
 20 residence of his change of residence and that he holds the
 21 permit. If his residence changes either from or to a city or
 22 town with a police force, he shall also inform the chief of
 23 police in each of those cities or towns that has a police
 24 force.

25 NEW SECTION. Section 6. Immunity from liability. A

1 sheriff, employee of a sheriff's office, or county is not
2 liable for damages in a civil action by a person or entity
3 claiming death, personal injury, or property damage arising
4 from alleged wrongful or improper grant, renewal, or failure
5 to revoke a permit to carry a concealed weapon.

6 NEW SECTION. Section 7. Carrying a concealed weapon
7 while under the influence. A person commits the offense of
8 carrying a concealed weapon while under the influence if he
9 purposely or knowingly carries a concealed weapon while
10 under the influence of an intoxicating substance. It is not
11 a defense that the person had a valid permit to carry a
12 concealed weapon. A person convicted of the offense shall be
13 imprisoned in the county jail for a term not to exceed 6
14 months or fined an amount not to exceed \$500, or both.

15 NEW SECTION. Section 8. Carrying a concealed weapon in
16 a prohibited place. (1) A person commits the offense of
17 carrying a concealed weapon in a prohibited place if he
18 purposely or knowingly carries a concealed weapon in:

19 (a) a building owned or leased by the federal, state,
20 or local government;

21 (b) a bank, credit union, savings and loan institution,
22 or similar institution; or

23 (c) a room in which full meals are not served and
24 alcoholic beverages are sold, dispensed, and consumed under
25 a license issued under Title 16 for the sale of alcoholic

1 beverages for consumption on the premises.

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

7 **Section 9.** Section 45-8-315, MCA, is amended to read:

8 "45-8-315. Definition. "Concealed weapon" shall--mean
9 means any weapon mentioned in 45-8-316 through 45-8-319
10 which--shall-be 45-8-318 and [sections 1 through 8] that is
11 wholly or partially covered by the clothing or wearing
12 apparel of the person so carrying or bearing the weapon,
13 EXCEPT THAT FOR PURPOSES OF [SECTIONS 1 THROUGH 8] CONCEALED
14 WEAPON MEANS A HANDGUN OR A KNIFE WITH A BLADE 4 OR MORE
15 INCHES IN LENGTH THAT IS WHOLLY OR PARTIALLY COVERED BY THE
16 CLOTHING OR WEARING APPAREL OF THE PERSON CARRYING OR
17 BEARING THE WEAPON."

18 **Section 10.** Section 45-8-317, MCA, is amended to read:

19 "45-8-317. Exceptions. Section 45-8-316 does AND
20 [SECTION 8] DO not apply to:

- 21 (1) any peace officer of the state of Montana;
22 (2) any officer of the United States government
23 authorized to carry a concealed weapon;
24 (3) a person in actual service as a national guardsman;
25 (4) a person summoned to the aid of any of the persons

1 named in subsections (1) through (3);

2 (5) a civil officer or his deputy engaged in the
3 discharge of official business;

4 (6) a probation and parole officer authorized to carry
5 a firearm under 46-23-1002;

6 (7) a ~~person authorized by a judge of a district court~~
7 ~~of this state to carry a weapon~~ issued a permit under
8 [section 1]; or

9 (8) AN AGENT OF THE DEPARTMENT OF JUSTICE OR a criminal
10 investigator in the office of the attorney general or in a
11 county attorney's office;

12 (9) a person who is outside the official boundaries of
13 a city or town or the confines of a logging, lumbering,
14 mining, or railroad camp or who is lawfully engaged in
15 hunting, fishing, trapping, camping, hiking, backpacking,
16 farming, ranching, or other outdoor activity in which
17 weapons are often carried for recreation or protection; or

18 ~~†8)†~~(10) the carrying of arms on one's own premises or at
19 one's home or place of business."

20 **Section 11.** Section 45-8-351, MCA, is amended to read:

21 "45-8-351. Restriction on local government regulation
22 of firearms. (1) Except as provided in subsection (2), no
23 county, city, town, consolidated local government, or other
24 local government unit may prohibit, register, tax, license,
25 or regulate the purchase, sale or other transfer (including

1 delay in purchase, sale, or other transfer), ownership,
2 possession, transportation, use, or concealed or unconcealed
3 carrying of any weapon, including a rifle, shotgun, or
4 handgun.

5 (2) (a) For public safety purposes, a city or town may
6 regulate the discharge of rifles, shotguns, and handguns. A
7 county, city, town, consolidated local government, or other
8 local government unit has power to prevent and suppress the
9 carrying of concealed weapons,---the---carrying--of or
10 unconcealed weapons to a public assembly, publicly owned
11 building, park under its jurisdiction, or school, and the
12 possession of firearms by convicted felons, adjudicated
13 mental incompetents, illegal aliens, and minors.

14 (b) Nothing contained herein shall allow any government
15 to prohibit the legitimate display of firearms at shows or
16 other public occasions by collectors and others, nor shall
17 anything contained herein prohibit the legitimate
18 transportation of firearms through any jurisdiction, whether
19 in airports or otherwise."

20 NEW SECTION. **Section 12.** Existing permits. A permit to
21 carry a concealed weapon issued before October 1, 1991, is
22 valid until the expiration date of the permit.

23 NEW SECTION. **Section 13.** Requirements for granting
24 governmental entity immunity from suit. Because {section 6}
25 grants a sheriff, his employees, and the county immunity

1 from suit for injury to person or property, a two-thirds
2 vote of each house of the legislature is required for
3 enactment of [section 6]. If [section 6] is not approved by
4 the required vote, [section 6] is void. The remaining
5 sections of [this act] are valid and remain in effect in all
6 valid applications upon enactment.

7 NEW SECTION. **Section 14. Repealer.** Section 45-8-319,
8 MCA, is repealed.

9 NEW SECTION. **Section 15. Codification instruction.**
10 [Sections 1 through 8] are intended to be codified as an
11 integral part of Title 45, chapter 8, part 3, and the
12 provisions of Title 45, chapter 8, part 3, apply to
13 [sections 1 through 8].

-End-

HOUSE BILL NO. 825

INTRODUCED BY D. BROWN, DRISCOLL, STRIZICH, CLARK, JACOBSON, LYNCH, DARKO, DAILY, PAVLOVICH, MENAHAN, QUILICI, ELLISON, NATHE, THOMAS, LEE, R. JOHNSON, HOFFMAN, GILBERT, R. DEBRUYCKER, KELLER, J. RICE, HAYNE, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO THE CARRYING OF CONCEALED WEAPONS; AMENDING SECTIONS 45-8-315, 45-8-317, AND 45-8-351, MCA; AND REPEALING SECTION 45-8-319, MCA."

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

NEW SECTION. Section 1. 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 2 years from the date of issuance. An applicant must be a United States citizen 18 years of age or older 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. 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 of a state or federal crime that is punishable by incarceration for 1 year or more;

(c) has been convicted in any state or federal court in any state 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, unless the applicant has been pardoned or 3 years have elapsed since the date of the conviction and the applicant is no longer under state or federal supervision for the crime;

(d) has been convicted under [section 7 or 8], unless he 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 his arrest;

(f) has been adjudicated in a criminal or civil proceeding in a court of any state or in a 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



1 otherwise under state supervision;

2 (g) has been adjudicated in a criminal or civil
3 proceeding in a court of any state or in a federal court to
4 be mentally ill, mentally defective, or mentally disabled
5 and is still subject to a disposition order of that court or
6 unless the sheriff has ~~probable~~ REASONABLE cause to believe
7 that the applicant is mentally ill, mentally defective, or
8 mentally disabled to the extent that the applicant should
9 not be allowed to carry a concealed weapon; or

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

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

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

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

25 (c) completion of a law enforcement firearms safety or

1 training course offered to or required of public or private
2 law enforcement personnel and conducted or approved by a law
3 enforcement agency; or

4 (d) possession of a license from another state to carry
5 a firearm, concealed or otherwise, that is granted by that
6 state upon completion of a course described in subsections
7 (2)(a) through (2)(c).

8 (3) A photocopy of a certificate of completion of a
9 course described in subsection (2), an affidavit from the
10 entity or instructor that conducted the course attesting to
11 completion of the course, or a copy of any other document
12 that attests to completion of the course and can be verified
13 through contact with the entity or instructor that conducted
14 the course creates a presumption that the applicant has
15 completed a course described in subsection (2).

16 NEW SECTION. Section 2. Application, renewal, permit,
17 and fees. (1) The application form must be readily available
18 at the sheriff's office and must read as follows:

19 CONCEALED WEAPON PERMIT APPLICATION

20 To be completed by each person making application:

21 RESIDENT OF MONTANA AT LEAST 6 MONTHS () Yes () No

22 CITIZEN OF THE UNITED STATES () Yes () No

23 18 YEARS OF AGE OR OLDER () Yes () No

24 PLEASE TYPE OR PRINT

25 Full name:

1 Last First Middle
 2 Alias/Maiden/Nickname:
 3 Address: Home: Zip
 4 Employer: Zip
 5 Phone:/...../.....
 6 Home Employer Message
 7 Place of birth: Date of birth:
 8 Driver's license #: Issuing state:
 9 Social Security #: Sex
 10 Ht. Wt. Eyes Hair
 11 Spouse's-name:-----Date-of-birth:-----
 12 Spouse's-maiden-name:-----
 13 Spouse's-address-if-different-from-yours:-----
 14 Spouse's-place-of-employment:-----
 15 Pather's-name-&-address:-----
 16 Mother's-name-&-address:-----
 17 LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE
 18 LAST 5 YEARS:
 19 Employer or
 20 business name Address Number-of-years
 21 DATES OF EMPLOYMENT
 22 1.
 23 2.
 24 3.
 25 4.

1 5.
 2 6.
 3 LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST ±5 5
 4 YEARS:
 5 City State Number-of-years
 6 DATES OF RESIDENCE
 7 1.
 8 2.
 9 3.
 10 4.
 11 5.
 12 6.
 13 MILITARY SERVICE, BRANCH FROM TO
 14 TYPE OF DISCHARGE RANK UPON DISCHARGE
 15 HAVE YOU EVER BEEN ARRESTED FOR OR COURT-MARTIALED CONVICTED
 16 OF A CRIME OR FOUND GUILTY IN A COURT-MARTIAL PROCEEDING?
 17 () YES () NO
 18 IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic
 19 violations)
 20 (Attach additional sheet if necessary):
 21 City State Charge Date
 22 1.
 23 2.
 24 3.
 25 4.

1 5.
 2 LIST ~~FIVE~~ THREE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5
 3 YEARS THAT WILL BE CREDIBLE WITNESSES TO YOUR GOOD MORAL
 4 CHARACTER AND PEACEABLE DISPOSITION (DO NOT include
 5 relatives or present/past employers):

6	Name	Address	Phone
7	1. ....	.....	.....
8	2. ....	.....	.....
9	3. ....	.....	.....
10	4. ....	.....	.....
11	5. ....	.....	.....

12 IN COMPLETE DETAIL, PLEASE EXPLAIN YOUR REASONS FOR
 13 REQUESTING THIS PERMIT (Attach additional sheet if
 14 necessary):

15
 16
 17
 18
 19
 20

21 I, the undersigned applicant, swear that the foregoing
 22 information is true and correct to the best of my knowledge
 23 and belief and is given with the full knowledge that any
 24 misstatement contained herein may be sufficient cause for
 25 denial or revocation of a permit to carry a concealed

1 weapon. I hereby authorize any person having information
 2 concerning me that relates to the information requested by
 3 this application and the requirements for a concealed weapon
 4 permit, either public record or otherwise, to furnish it to
 5 the sheriff to whom this application is made.

6
 7 Signature
 8

9 DATE OF APPLICATION
 10 THIS APPLICATION MUST BE
 11 SIGNED IN THE PRESENCE OF
 12 THE SHERIFF OR HIS DESIGNEE.

13 ~~Sworn-to-and-subscribed-before-me,-a-Notary-Public,-this~~
 14 ~~-----day-of-----,19----~~
 15 -
 16 - ~~Notary-Public-for-the-State-of-~~
 17 - ~~Montana-Residing-at-----~~
 18 ~~-----SEAL My-commission-expires-----~~

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

1 (3) The fee for issuance of a permit is \$50. The permit
 2 must be renewed for additional 2-year periods upon payment
 3 of a \$25 fee per renewal and upon request for renewal made
 4 within 90 days before expiration of the permit. The permit
 5 and each renewal must be in triplicate, in a form prescribed
 6 by the department of justice, and must at a minimum include
 7 the name, address, physical description, signature, driver's
 8 license or state identification card number, and a picture
 9 of the permittee. The permit must state that federal and
 10 state laws on possession of firearms and other weapons
 11 differ and that a person who violates the federal law may be
 12 prosecuted in federal court and the Montana permit will not
 13 be a defense. The permittee must be given the original, and
 14 the sheriff shall keep a copy and send a copy to the
 15 department of justice, which shall keep a central repository
 16 record of all permits. REPLACEMENT OF A LOST PERMIT MUST BE
 17 TREATED AS A RENEWAL UNDER THIS SUBSECTION.

18 (4) The sheriff shall conduct a criminal record and
 19 background check of an applicant who has not submitted a
 20 prior application to the sheriff, may require an applicant
 21 to submit his fingerprints, and may charge the applicant for
 22 ~~the cost of the background check and~~ \$5 for fingerprinting.

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 24 retained by the sheriff and used to implement [sections 1
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6 \$500, or both.

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8 "45-8-315. Definition. "Concealed weapon" shall--mean
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10 which-shall-be 45-8-318 and [sections 1 through 8] that is
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13 EXCEPT THAT FOR PURPOSES OF [SECTIONS 1 THROUGH 8] CONCEALED
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3 discharge of official business;

4 (6) a probation and parole officer authorized to carry
5 a firearm under 46-23-1002;

6 (7) a person ~~authorized by a judge of a district court~~
7 ~~of this state to carry a weapon~~ issued a permit under
8 [section 1]; or

9 (8) AN AGENT OF THE DEPARTMENT OF JUSTICE OR a criminal
10 investigator in the office of the attorney general or in a
11 county attorney's office;

12 (9) a person who is outside the official boundaries of
13 a city or town or the confines of a logging, lumbering,
14 mining, or railroad camp or who is lawfully engaged in
15 hunting, fishing, trapping, camping, hiking, backpacking,
16 farming, ranching, or other outdoor activity in which
17 weapons are often carried for recreation or protection; or

18 ~~(10)~~ (10) the carrying of arms on one's own premises or at
19 one's home or place of business."

20 **Section 11.** Section 45-8-351, MCA, is amended to read:

21 "45-8-351. **Restriction on local government regulation**
22 **of firearms.** (1) Except as provided in subsection (2), no
23 county, city, town, consolidated local government, or other
24 local government unit may prohibit, register, tax, license,
25 or regulate the purchase, sale or other transfer (including

1 delay in purchase, sale, or other transfer), ownership,
2 possession, transportation, use, or concealed or unconcealed
3 carrying of any weapon, including a rifle, shotgun, or
4 handgun.

5 (2) (a) For public safety purposes, a city or town may
6 regulate the discharge of rifles, shotguns, and handguns. A
7 county, city, town, consolidated local government, or other
8 local government unit has power to prevent and suppress the
9 carrying of concealed weapons;---the--carrying--of or
10 unconcealed weapons to a public assembly, publicly owned
11 building, park under its jurisdiction, or school, and the
12 possession of firearms by convicted felons, adjudicated
13 mental incompetents, illegal aliens, and minors.

14 (b) Nothing contained herein shall allow any government
15 to prohibit the legitimate display of firearms at shows or
16 other public occasions by collectors and others, nor shall
17 anything contained herein prohibit the legitimate
18 transportation of firearms through any jurisdiction, whether
19 in airports or otherwise."

20 NEW SECTION. **Section 12.** Existing permits. A permit to
21 carry a concealed weapon issued before October 1, 1991, is
22 valid until the expiration date of the permit.

23 NEW SECTION. **Section 13.** Requirements for granting
24 governmental entity immunity from suit. Because [section 6]
25 grants a sheriff, his employees, and the county immunity

1 from suit for injury to person or property, a two-thirds
2 vote of each house of the legislature is required for
3 enactment of [section 6]. If [section 6] is not approved by
4 the required vote, [section 6] is void. The remaining
5 sections of [this act] are valid and remain in effect in all
6 valid applications upon enactment.

7 NEW SECTION. **Section 14.** Repealer. Section 45-8-319,
8 MCA, is repealed.

9 NEW SECTION. **Section 15.** Codification instruction.
10 [Sections 1 through 8] are intended to be codified as an
11 integral part of Title 45, chapter 8, part 3, and the
12 provisions of Title 45, chapter 8, part 3, apply to
13 [sections 1 through 8].

-End-

SENATE STANDING COMMITTEE REPORT

Page 2 of 2
April 4, 1991

Page 1 of 2
April 4, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 825 (third reading copy as amended -- blue), respectfully report that House Bill No. 825 be amended and as so amended be concurred in:

1. Title, lines 9 and 10.
Following: ";" on line 9
Strike: "AND"
Following: "MCA" on line 10
Insert: "; AND PROVIDING A TERMINATION PROVISION"
2. Page 1, line 22.
Following: "."
Strike: "This"
Insert: "Except as provided in subsection (2), this"
3. Page 3, lines 5 through 9.
Following: "court" on line 5
Strike: remainder of line 5 through "weapon" on line 9
4. Page 3, line 12.
Following: line 11
Insert: "(2) The sheriff may deny an applicant 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]."
Re-number: subsequent subsections
5. Page 4, line 7.
Strike: "(2)(a)"
Insert: "(3)(a)"
Strike: "(2)(c)"
Insert: "(3)(c)"
6. Page 4, lines 9 and 15.
Strike: "(2)"
Insert: "(3)"
7. Page 9, lines 19 and 20.
Following: "applicant" on line 19
Strike: remainder of line 19 through "sheriff" on line 20

8. Page 11, line 5.
Following: "weapon"
Insert: ", except for actions that constitute willful misconduct or gross negligence"
9. Page 12, line 19.
Following: "AND"
Insert: ", except for a person referred to in subsection (7),"
10. Page 14, line 2.
Strike: "concealed or"
11. Page 14, lines 3 and 4.
Following: "shotgun," on line 3
Strike: "or"
Following: "handgun" on line 4
Insert: ", or concealed handgun"
12. Page 11, line 23.
Strike: "full meals are not served and"
13. Page 15.
Following: line 13
Insert: "NEW SECTION. Section 16. Termination. The bracketed language in [section 1 (2)] terminates July 1, 1993."

Signed: Richard P. Finsoneault
Richard P. Finsoneault, Chairman

4-4-91
Ad. Coord.

S.B. 4-4 6:45 pm
Sec. of Senate

1 HOUSE BILL NO. 825

2 INTRODUCED BY D. BROWN, DRISCOLL, STRIZICH, CLARK,
 3 JACOBSON, LYNCH, DARKO, DAILY, PAVLOVICH, MENAHAN, QUILICI,
 4 ELLISON, NATHE, THOMAS, LEE, R. JOHNSON, HOFFMAN, GILBERT,
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6
 7 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
 8 RELATING TO THE CARRYING OF CONCEALED WEAPONS; AMENDING
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 10 REPEALING SECTION 45-8-319, MCA; AND PROVIDING A TERMINATION
 11 PROVISION."

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

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 19 United States citizen 18 years of age or older who holds a
 20 valid Montana driver's license or other form of
 21 identification issued by the state that has a picture of the
 22 person identified. An applicant must have been a resident of
 23 the state for at least 6 months. THIS EXCEPT AS PROVIDED IN
 24 SUBSECTION (2), THIS privilege may not be denied an
 25 applicant unless the applicant:

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

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

6 (c) has been convicted in any state or federal court in
 7 any state of a crime punishable by more than 1 year of
 8 incarceration or, regardless of the sentence that may be
 9 imposed, a crime that includes as an element of the crime an
 10 act, attempted act, or threat of intentional homicide,
 11 violence, bodily or serious bodily harm, unlawful restraint,
 12 sexual abuse, or sexual intercourse or contact without
 13 consent, ~~unless the applicant has been pardoned or 3 years~~
 14 ~~have elapsed since the date of the conviction and the~~
 15 ~~applicant is no longer under state or federal supervision~~
 16 ~~for the crime;~~

17 (d) has been convicted under [section 7 or 8], unless
 18 he has been pardoned or 5 years have elapsed since the date
 19 of the conviction;

20 (e) has a warrant of any state or the federal
 21 government out for his arrest;

22 (f) has been adjudicated in a criminal or civil
 23 proceeding in a court of any state or in a federal court to
 24 be an unlawful user of an intoxicating substance and is
 25 under a court order of imprisonment or other incarceration,

1 probation, suspended or deferred imposition of sentence,
2 treatment or education, or other conditions of release or is
3 otherwise under state supervision;

4 (g) has been adjudicated in a criminal or civil
5 proceeding in a court of any state or in a federal court to
6 be mentally ill, mentally defective, or mentally disabled
7 and is still subject to a disposition order of that court or
8 ~~unless the sheriff has probable~~ REASONABLE ~~cause to believe~~
9 ~~that the applicant is mentally ill, mentally defective, or~~
10 ~~mentally disabled to the extent that the applicant should~~
11 ~~not be allowed to carry a concealed weapon;~~ or

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

14 (2) THE SHERIFF MAY DENY AN APPLICANT A PERMIT TO CARRY
15 A CONCEALED WEAPON IF THE SHERIFF HAS REASONABLE CAUSE TO
16 BELIEVE THAT THE APPLICANT IS MENTALLY ILL, MENTALLY
17 DEFECTIVE, OR MENTALLY DISABLED [OR OTHERWISE MAY BE A
18 THREAT TO THE PEACE AND GOOD ORDER OF THE COMMUNITY TO THE
19 EXTENT THAT THE APPLICANT SHOULD NOT BE ALLOWED TO CARRY A
20 CONCEALED WEAPON].

21 ~~(2)(3)~~ An applicant for a permit under this section
22 must, as a condition to issuance of the permit, be required
23 by the sheriff to demonstrate familiarity with a firearm by:

24 (a) completion of a hunter education or safety course
25 approved or conducted by the department of fish, wildlife,

1 and parks or a similar agency of another state;

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

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

13 (d) possession of a license from another state to carry
14 a firearm, concealed or otherwise, that is granted by that
15 state upon completion of a course described in subsections
16 ~~(2)(a)~~ (3)(A) through ~~(2)(c)~~ (3)(C).

17 ~~(3)(4)~~ A photocopy of a certificate of completion of a
18 course described in subsection ~~(2)~~ (3), an affidavit from
19 the entity or instructor that conducted the course attesting
20 to completion of the course, or a copy of any other document
21 that attests to completion of the course and can be verified
22 through contact with the entity or instructor that conducted
23 the course creates a presumption that the applicant has
24 completed a course described in subsection ~~(2)~~ (3).

25 NEW SECTION. Section 2. Application, renewal, permit,

1 and fees. (1) The application form must be readily available
2 at the sheriff's office and must read as follows:

3 CONCEALED WEAPON PERMIT APPLICATION

4 To be completed by each person making application:

5 RESIDENT OF MONTANA AT LEAST 6 MONTHS () Yes () No

6 CITIZEN OF THE UNITED STATES () Yes () No

7 18 YEARS OF AGE OR OLDER () Yes () No

8 PLEASE TYPE OR PRINT

9 Full name:

10 Last First Middle

11 Alias/Maiden/Nickname:

12 Address: Home: Zip

13 Employer: Zip

14 Phone:/...../.....

15 Home Employer Message

16 Place of birth: Date of birth:

17 Driver's license #: Issuing state:

18 Social Security #: Sex

19 Ht. Wt. Eyes Hair

20 Spouse's name:-----Date-of-birth:-----

21 Spouse's maiden name:-----

22 Spouse's address-if-different-from-yours:-----

23 Spouse's place-of-employment:-----

24 Father's name-&-address:-----

25 Mother's name-&-address:-----

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

3 Employer or
4 business name Address Number-of-years
5 DATES OF EMPLOYMENT

6 1.

7 2.

8 3.

9 4.

10 5.

11 6.

12 LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST 15
13 YEARS:

14 City State Number-of-years
15 DATES OF RESIDENCE

16 1.

17 2.

18 3.

19 4.

20 5.

21 6.

22 MILITARY SERVICE, BRANCH FROM TO

23 TYPE OF DISCHARGE RANK UPON DISCHARGE

24 HAVE YOU EVER BEEN ARRESTED FOR OR COURT-MARTIALED CONVICTED

25 OF A CRIME OR FOUND GUILTY IN A COURT-MARTIAL PROCEEDING?

1 () YES () NO

2 IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic
3 violations)

4 (Attach additional sheet if necessary):

5	City	State	Charge	Date
6	1.	.....	.....	.....
7	2.	.....	.....	.....
8	3.	.....	.....	.....
9	4.	.....	.....	.....
10	5.	.....	.....	.....

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

15	Name	Address	Phone
16	1.	.....	.....
17	2.	.....	.....
18	3.	.....	.....
19	4.	.....	.....
20	5.	.....	.....

21 IN COMPLETE DETAIL, PLEASE EXPLAIN YOUR REASONS FOR
22 REQUESTING THIS PERMIT (Attach additional sheet if
23 necessary):

24
25

1
2
3
4

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

15
16 Signature

17
18 DATE OF APPLICATION

19 THIS APPLICATION MUST BE
20 SIGNED IN THE PRESENCE OF
21 THE SHERIFF OR HIS DESIGNEE.

22 Sworn-to-and-subscribed-before-me,--a--Notary--Public,--this
23 -----day-of-----19-----

24
25 Notary-Public-for-the-State-of-

1 Montana-Residing-at-----
 2 SEAB My-commission-expires:-----
 3 (2) The application must be in triplicate. The
 4 applicant must be given the original at the time the
 5 completed application is filed with the sheriff, the sheriff
 6 shall keep a copy for at least 2 years, and a copy must,
 7 within 7 days of the sheriff's receipt of the application,
 8 be mailed to the chief of police if the applicant resides in
 9 a city or town with a police force.
 10 (3) The fee for issuance of a permit is \$50. The permit
 11 must be renewed for additional 2-year periods upon payment
 12 of a \$25 fee per renewal and upon request for renewal made
 13 within 90 days before expiration of the permit. The permit
 14 and each renewal must be in triplicate, in a form prescribed
 15 by the department of justice, and must at a minimum include
 16 the name, address, physical description, signature, driver's
 17 license or state identification card number, and a picture
 18 of the permittee. The permit must state that federal and
 19 state laws on possession of firearms and other weapons
 20 differ and that a person who violates the federal law may be
 21 prosecuted in federal court and the Montana permit will not
 22 be a defense. The permittee must be given the original, and
 23 the sheriff shall keep a copy and send a copy to the
 24 department of justice, which shall keep a central repository
 25 record of all permits. REPLACEMENT OF A LOST PERMIT MUST BE

1 TREATED AS A RENEWAL UNDER THIS SUBSECTION.
 2 (4) The sheriff shall conduct a criminal record and
 3 background check of an applicant ~~who--has--not--submitted--a~~
 4 ~~prior--application--to-the-sheriff~~, may require an applicant
 5 to submit his fingerprints, and may charge the applicant ~~for~~
 6 ~~the-cost-of-the-background-check-and~~ \$5 for fingerprinting.
 7 (5) Permit, background, and fingerprinting fees may be
 8 retained by the sheriff and used to implement [sections 1
 9 through 5].
 10 (6) A state or local government law enforcement agency
 11 or other agency or any of its officers or employees may not
 12 request a permittee to voluntarily submit information in
 13 addition to that required on an application and permit.
 14 NEW SECTION. Section 3. Denial of renewal --
 15 revocation of permit. A permit to carry a concealed weapon
 16 may be revoked or its renewal denied by the sheriff of the
 17 county in which it ~~was--issued~~ THE PERMITTEE RESIDES if
 18 circumstances arise that would require the sheriff to refuse
 19 to grant the permittee an original license.
 20 NEW SECTION. Section 4. Appeal. The denial or
 21 revocation of a permit to carry a concealed weapon or
 22 refusal of a renewal is subject to appeal to the district
 23 court and from that court to the Montana supreme court.
 24 NEW SECTION. Section 5. Permittee change of county of
 25 residence -- notification to sheriffs and chief of police. A

1 person with a permit to carry a concealed weapon who changes
 2 his county of residence shall within 10 days of the change
 3 inform the sheriffs of both the old and new counties of
 4 residence of his change of residence and that he holds the
 5 permit. If his residence changes either from or to a city or
 6 town with a police force, he shall also inform the chief of
 7 police in each of those cities or towns that has a police
 8 force.

9 NEW SECTION. Section 6. Immunity from liability. A
 10 sheriff, employee of a sheriff's office, or county is not
 11 liable for damages in a civil action by a person or entity
 12 claiming death, personal injury, or property damage arising
 13 from alleged wrongful or improper grant, renewal, or failure
 14 to revoke a permit to carry a concealed weapon, EXCEPT FOR
 15 ACTIONS THAT CONSTITUTE WILLFUL MISCONDUCT OR GROSS
 16 NEGLIGENCE.

17 NEW SECTION. Section 7. Carrying a concealed weapon
 18 while under the influence. A person commits the offense of
 19 carrying a concealed weapon while under the influence if he
 20 purposely or knowingly carries a concealed weapon while
 21 under the influence of an intoxicating substance. It is not
 22 a defense that the person had a valid permit to carry a
 23 concealed weapon. A person convicted of the offense shall be
 24 imprisoned in the county jail for a term not to exceed 6
 25 months or fined an amount not to exceed \$500, or both.

1 NEW SECTION. Section 8. Carrying a concealed weapon in
 2 a prohibited place. (1) A person commits the offense of
 3 carrying a concealed weapon in a prohibited place if he
 4 purposely or knowingly carries a concealed weapon in:

5 (a) a building owned or leased by the federal, state,
 6 or local government;

7 (b) a bank, credit union, savings and loan institution,
 8 or similar institution; or

9 (c) a room in which ~~full-meals-are-not-served-and~~
 10 alcoholic beverages are sold, dispensed, and consumed under
 11 a license issued under Title 16 for the sale of alcoholic
 12 beverages for consumption on the premises.

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

18 Section 9. Section 45-8-315, MCA, is amended to read:

19 "45-8-315. Definition. "Concealed weapon" shall-mean
 20 means any weapon mentioned in 45-8-316 through 45-8-319
 21 which-shall-be 45-8-318 and (sections 1 through 8) that is
 22 wholly or partially covered by the clothing or wearing
 23 apparel of the person so carrying or bearing the weapon,
 24 EXCEPT THAT FOR PURPOSES OF (SECTIONS 1 THROUGH 8) CONCEALED
 25 WEAPON MEANS A HANDGUN OR A KNIFE WITH A BLADE 4 OR MORE

1 INCHES IN LENGTH THAT IS WHOLLY OR PARTIALLY COVERED BY THE
 2 CLOTHING OR WEARING APPAREL OF THE PERSON CARRYING OR
 3 BEARING THE WEAPON."

4 **Section 10.** Section 45-8-317, MCA, is amended to read:

5 **"45-8-317. Exceptions.** Section 45-8-316 does AND,
 6 EXCEPT FOR A PERSON REFERRED TO IN SUBSECTION (7), [SECTION
 7 8] DO not apply to:

8 (1) any peace officer of the state of Montana;

9 (2) any officer of the United States government
 10 authorized to carry a concealed weapon;

11 (3) a person in actual service as a national guardsman;

12 (4) a person summoned to the aid of any of the persons
 13 named in subsections (1) through (3);

14 (5) a civil officer or his deputy engaged in the
 15 discharge of official business;

16 (6) a probation and parole officer authorized to carry
 17 a firearm under 46-23-1002;

18 (7) a person ~~authorized by a judge of a district court~~
 19 ~~of this state to carry a weapon~~ issued a permit under
 20 [section 1]; or

21 (8) AN AGENT OF THE DEPARTMENT OF JUSTICE OR a criminal
 22 investigator in the office of the attorney general or in a
 23 county attorney's office;

24 (9) a person who is outside the official boundaries of
 25 a city or town or the confines of a logging, lumbering,

1 mining, or railroad camp or who is lawfully engaged in
 2 hunting, fishing, trapping, camping, hiking, backpacking,
 3 farming, ranching, or other outdoor activity in which
 4 weapons are often carried for recreation or protection; or

5 ~~(8)(10)~~ the carrying of arms on one's own premises or at
 6 one's home or place of business."

7 **Section 11.** Section 45-8-351, MCA, is amended to read:

8 **"45-8-351. Restriction on local government regulation**
 9 **of firearms.** (1) Except as provided in subsection (2), no
 10 county, city, town, consolidated local government, or other
 11 local government unit may prohibit, register, tax, license,
 12 or regulate the purchase, sale or other transfer (including
 13 delay in purchase, sale, or other transfer), ownership,
 14 possession, transportation, use, or ~~concealed or~~ unconcealed
 15 carrying of any weapon, including a rifle, shotgun, or
 16 handgun, OR CONCEALED HANDGUN.

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

1 (b) Nothing contained herein shall allow any government
 2 to prohibit the legitimate display of firearms at shows or
 3 other public occasions by collectors and others, nor shall
 4 anything contained herein prohibit the legitimate
 5 transportation of firearms through any jurisdiction, whether
 6 in airports or otherwise."

7 NEW SECTION. Section 12. Existing permits. A permit to
 8 carry a concealed weapon issued before October 1, 1991, is
 9 valid until the expiration date of the permit.

10 NEW SECTION. Section 13. Requirements for granting
 11 governmental entity immunity from suit. Because [section 6]
 12 grants a sheriff, his employees, and the county immunity
 13 from suit for injury to person or property, a two-thirds
 14 vote of each house of the legislature is required for
 15 enactment of [section 6]. If [section 6] is not approved by
 16 the required vote, [section 6] is void. The remaining
 17 sections of [this act] are valid and remain in effect in all
 18 valid applications upon enactment.

19 NEW SECTION. Section 14. Repealer. Section 45-8-319,
 20 MCA, is repealed.

21 NEW SECTION. Section 15. Codification instruction.
 22 [Sections 1 through 8] are intended to be codified as an
 23 integral part of Title 45, chapter 8, part 3, and the
 24 provisions of Title 45, chapter 8, part 3, apply to
 25 [sections 1 through 8].

1 NEW SECTION. SECTION 16. TERMINATION. THE BRACKETED
 2 LANGUAGE IN [SECTION 1(2)] TERMINATES JULY 1, 1993.

-End-

Free Conference Committee
on House Bill 825
Report No. 1, April 22, 1991

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April 22, 1991
Page 2 of 2

Page 1 of 2

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 825 and recommend that House Bill 825 (reference copy -- salmon) be amended as follows:

1. Title, line 9.
Following: "AND"
Insert: "AND"
2. Title, lines 10 and 11.
Following: "MCA" on line 10
Strike: remainder of line 10 through "PROVISION" on line 11
3. Page 1, line 17.
Strike: "2"
Insert: "4"
4. Page 3, line 17.
Following: "DISABLED"
Strike: "I"
5. Page 3, line 20.
Following: "WEAPON"
Strike: "1"
6. Page 9, line 6.
Strike: "2"
Insert: "4"
7. Page 9, line 11.
Strike: "2-year"
Insert: "4-year"
8. Page 16, lines 1 and 2.
Strike: section 16 in its entirety

And this Free Conference Committee report be adopted.

For the House:

Dave Brown
Rep. D. Brown, Chair

Bill Strizich
Rep. Strizich

Robert Clark
Rep. Clark

For the Senate:

Wm Yellowtail
Sen. Yellowtail, Chair

Chap Blaylock
Sen. Blaylock

Sen. Rye
Sen. Rye

ADOPT
REJECT

861021CC.HSF

FCCR #1
HB 825
861021CC.HSF



AN ACT REVISING THE LAW RELATING TO THE CARRYING OF CONCEALED WEAPONS; AMENDING SECTIONS 45-8-315, 45-8-317, AND 45-8-351, MCA; AND REPEALING SECTION 45-8-319, MCA.

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

Section 1. 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. An applicant must be a United States citizen 18 years of age or older 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 in any state 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 [section 7 or 8], unless he 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 his arrest;

(f) has been adjudicated in a criminal or civil proceeding in a court of any state or in a 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 a court of any state or in a 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 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.

(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 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; or

(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).

(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).

Section 2. Application, 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

Alias/Maiden/Nickname:

Address: Home: Zip

Employer: Zip

Phone:/...../

Home Employer Message

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
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
1.
2.
3.

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

.....
.....
.....
.....
.....

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 contained herein may be sufficient cause for denial or revocation of a

permit to carry a concealed weapon. I hereby 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 his 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, 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 and each renewal must be in triplicate, in a form prescribed by the department of justice, and must at a minimum include the name, address, physical description, signature, driver's license or state identification

card number, and a picture of the permittee. 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 under this subsection.

(4) The sheriff shall conduct a criminal record and background check of an applicant, may require an applicant to submit his fingerprints, and may charge the applicant \$5 for fingerprinting.

(5) Permit, background, and fingerprinting fees may be retained by the sheriff and used to implement [sections 1 through 5].

(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. Denial of renewal -- 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. **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 and from that court to the Montana supreme court.

Section 5. **Permittee change of county of residence -- notification to sheriffs and chief of police.** A person with a permit to carry a concealed weapon who changes his county of residence shall within 10 days of the change inform the sheriffs of both the old and new counties of residence of his change of residence and that he holds the permit. If his residence changes either from or to a city or town with a police force, he shall also inform the chief of police in each of those cities or towns that has a police force.

Section 6. **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, renewal, or failure to revoke a permit to carry a concealed weapon, except for actions that constitute willful misconduct or gross negligence.

Section 7. **Carrying a concealed weapon while under the influence.** A person commits the offense of carrying a concealed weapon while under the influence if he purposely or knowingly carries a concealed weapon while under the influence of an intoxicating substance. It is not a defense that the person had a

valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed \$500, or both.

Section 8. **Carrying a concealed weapon in a prohibited place.** (1) A person commits the offense of carrying a concealed weapon in a prohibited place if he purposely or knowingly carries a concealed weapon in:

(a) a building owned or leased by the federal, state, or local government;

(b) a bank, credit union, savings and loan institution, or similar institution; or

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

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

Section 9. Section 45-8-315, MCA, is amended to read:

"45-8-315. **Definition.** "Concealed weapon" ~~shall mean~~ means any weapon mentioned in 45-8-316 through 45-8-319 ~~which--shall--be~~ 45-8-318 and [sections 1 through 8] that is wholly or partially covered by the clothing or wearing apparel of the person ~~so~~ carrying or bearing the weapon, except that for purposes of [sections 1 through 8] concealed weapon means a handgun or a knife

with a blade 4 or more inches in length that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon."

Section 10. Section 45-8-317, MCA, is amended to read:

"45-8-317. Exceptions. Section 45-8-316 does and, except for a person referred to in subsection (7), [section 8] do not apply to:

- (1) any peace officer of the state of Montana;
- (2) any officer of the United States government authorized to carry a concealed weapon;
- (3) a person in actual service as a national guardsman;
- (4) a person summoned to the aid of any of the persons named in subsections (1) through (3);
- (5) a civil officer or his deputy engaged in the discharge of official business;
- (6) a probation and parole officer authorized to carry a firearm under 46-23-1002;
- (7) a person ~~authorized--by--a--judge--of--a--district--court--of--this--state--to--carry--a--weapon~~ issued a permit under [section 1]; or
- (8) an agent of the department of justice or a criminal investigator in a county attorney's office;
- (9) 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; or

~~(8)~~(10) the carrying of arms on one's own premises or at one's home or place of business."

Section 11. Section 45-8-351, MCA, is amended to read:

"45-8-351. Restriction on local government regulation of firearms. (1) Except as provided in subsection (2), no county, city, town, consolidated local government, or other local government unit may prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in purchase, sale, or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon, including a rifle, shotgun, or handgun, or concealed handgun.

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

(b) Nothing contained herein shall allow any government to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others, nor shall anything

contained herein prohibit the legitimate transportation of firearms through any jurisdiction, whether in airports or otherwise."

Section 12. Existing permits. A permit to carry a concealed weapon issued before October 1, 1991, is valid until the expiration date of the permit.

Section 13. Requirements for granting governmental entity immunity from suit. Because [section 6] grants a sheriff, his employees, and the county immunity from suit for injury to person or property, a two-thirds vote of each house of the legislature is required for enactment of [section 6]. If [section 6] is not approved by the required vote, [section 6] is void. The remaining sections of [this act] are valid and remain in effect in all valid applications upon enactment.

Section 14. Repealer. Section 45-8-319, MCA, is repealed.

Section 15. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [sections 1 through 8].