

HOUSE BILL 70

Introduced by Driscoll, et al.

1/04	Introduced
1/05	Referred to Judiciary
1/06	Fiscal Note Requested
1/12	Hearing
1/13	Fiscal Note Received
1/13	Fiscal Note Printed
2/09	Committee Report--Bill Passed as Amended
2/20	2nd Reading Passed As Amended
2/21	3rd Reading Failed

1 HB BILL NO. 70  
 2 INTRODUCED BY Samuel Thomas Gilbert  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE  
 5 REQUIREMENTS FOR OBTAINING A PERMIT TO CARRY A CONCEALED  
 6 WEAPON; PROVIDING FOR THE FORM OF A PERMIT CARD; PROVIDING  
 7 FOR ISSUANCE OF A TEMPORARY PERMIT; PROVIDING FOR FEES AND  
 8 LATE RENEWAL FEES; PROVIDING FOR THE DISTRIBUTION OF FEES;  
 9 PROVIDING FOR RECORDKEEPING REQUIREMENTS; PROVIDING FOR  
 10 REVOCATION OF A PERMIT; AND AMENDING SECTIONS 45-8-317,  
 11 45-8-319, AND 45-8-351, MCA."  
 12

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

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

15 "45-8-317. Exceptions. Section 45-8-316 does not apply  
 16 to:

- 17 (1) any peace officer of the state of Montana;  
 18 (2) any officer of the United States government  
 19 authorized to carry a concealed weapon;  
 20 (3) a person in actual service as a national  
 21 guardsman;  
 22 (4) a person summoned to the aid of any of the persons  
 23 named in subsections (1) through (3);  
 24 (5) a civil officer or his deputy engaged in the  
 25 discharge of official business;

1 (6) a person authorized by a judge of a district court  
 2 of this state the sheriff of a county or the chief of police  
 3 of a municipality to carry a weapon; or

4 (7) the carrying of arms on one's own premises or at  
 5 one's home or place of business."

6 **Section 2.** Section 45-8-319, MCA, is amended to read:

7 "45-8-319. Permits to carry concealed weapons --  
 8 records -- fees -- revocation. (1) The legislature finds and  
 9 declares as a matter of public policy that it is necessary  
 10 to establish statewide uniform standards for issuing permits  
 11 to carry concealed weapons. The legislature intends that a  
 12 law-abiding citizen of this state who qualifies under the  
 13 provisions of this section may not arbitrarily or  
 14 subjectively be denied a permit to carry a concealed weapon.

15 (2) Any judge of a district court of this state may  
 16 grant permission The sheriff of a county or the chief of  
 17 police of a municipality in the county in which the  
 18 applicant resides shall, within 30 days after the filing of  
 19 an application, issue or deny a permit to the applicant to  
 20 carry or bear a concealed or--otherwise--a pistol or  
 21 revolver for a term not--exceeding--1 year of 2 years. A  
 22 permit is valid for any lawfully possessed firearm and is  
 23 valid throughout the state.

24 (3) A permit may not be issued to a person who:

25 (a) is not a citizen of the United States or who has

1 not been a resident of Montana for the 6 months immediately  
 2 preceding the date of the application;

3 (b) is less than 18 years of age;

4 (c) has been convicted of a felony under federal law  
 5 or the law of any state;

6 (d) has been convicted, within a 3-year period prior  
 7 to the date of the application, of:

8 (i) assault;

9 (ii) a first offense for carrying a concealed weapon;

10 (iii) resisting arrest;

11 (iv) domestic abuse;

12 (v) disorderly conduct;

13 (vi) voter coercion, as provided under 13-35-218; or

14 (vii) accountability for any of these offenses under  
 15 the provisions of Title 45, chapter 2, part 3;

16 (e) is an adjudicated drug or alcohol abuser;

17 (f) is adjudicated mentally incompetent.

18 †2†(4) All---applications---for---such---permission An  
 19 application for a permit must be made by petition filed with  
 20 the clerk-of-the-district-court sheriff or chief of police.  
 21 No charge may be made for the filing of the petition. The  
 22 application shall be completed, under oath, on a form  
 23 prescribed by the identification bureau of the department of  
 24 justice and must contain the following information:

25 (a) the applicant's name, date and place of birth,

1 occupation, height, weight, sex, race, and color of hair and  
 2 eyes;

3 (b) the applicant's residential and occupational  
 4 addresses;

5 (c) the applicant's fingerprints, which must be placed  
 6 on the application by the law enforcement officer receiving  
 7 the application;

8 (d) a list of any arrests or convictions of the  
 9 applicant for criminal offenses;

10 (e) the names of two personal references who reside in  
 11 the county where the application is made and who may attest  
 12 to the applicant's good moral character and peaceable  
 13 disposition;

14 (f) a statement that the applicant has been furnished  
 15 a copy of Title 45, chapter 8, part 3 and Title 45, chapter  
 16 3 and is knowledgeable of the provisions contained therein;

17 (g) a conspicuous warning that the application is  
 18 executed under oath and that a false answer to any question  
 19 or the submission of any false document by the applicant  
 20 subjects the applicant to a criminal prosecution under  
 21 45-7-202; and

22 (h) a statement that the applicant desires a concealed  
 23 weapon permit as a means of lawful self-defense.

24 †3†--The-applicant-shall, if personally unknown to--the  
 25 judge,--furnish proof by a credible witness of his good moral

character-and-peaceable-disposition;

(4) No such permission shall be granted any person who is not a citizen of the United States and, who has not been an actual bona fide resident of the state of Montana for 6 months immediately next preceding the date of such application.

(5) A record of permission granted shall be kept by the clerk of the court. The record shall state the date of the application, the date of the permission, the name of the person to whom permission is granted, the name of the judge granting the permission, and the name of the person, if any, by whom good moral character and peaceable disposition are proved. The record must be signed by the person who is granted such permission.

(5) Before a permit is issued, the sheriff or chief of police shall check the appropriate local and state law enforcement records and may check national law enforcement records for information relating to the applicant. The sheriff or chief of police may consider any information received in relation to the applicant's qualifications and the protection of society. The sheriff or chief of police may not be held liable for any damages resulting from granting a permit if the sheriff or chief of police requested information from local and state law enforcement records and considered any information received.

(6) The clerk sheriff or the chief of police shall thereupon issue under his hand and the seal of the court a certificate, a permit in a convenient card form so that the same it may be carried in the pocket, stating: The card form must be prescribed by the identification bureau of the department of justice. The identification bureau shall make available to the issuing authority any equipment required to comply with this subsection. The permit card shall:

(a) show a full-face photograph of the permitholder;

(b) state the date of issuance and the date of expiration of the permit; and

(c) list the permitholder's name, date of birth, address, height, weight, sex, race, and color of hair and eyes.

"Permission to authorize him to carry or bear, concealed or otherwise, a pistol or revolver for the period of from the date hereof has been granted by a judge of the district court of the judicial district of the state of Montana, in and for the county of

Witness the hand of the clerk and the seal of said court this day of 19

\*\*\*\*\*

Clerk"

(7) The date of the certificate shall be the date of the granting of such permission. The certificate permit card

shall bear upon its face the signature of the person receiving the same permit. A permit card is not valid unless it has been signed by the permitholder.

~~(8) Upon good cause shown the judge granting such permission may, in his discretion, without notice to the person receiving such permission, revoke the same. The date of the revocation shall be noted by the clerk upon the record kept by him.~~

~~(9) All permissions to carry or bear concealed weapons granted before March 31, 1919, are hereby revoked.~~

(8) The issuing authority shall issue a temporary permit to an approved applicant, on a form prescribed by the identification bureau of the department of justice, permitting the applicant to carry a concealed weapon until the permanent card is issued. A temporary permit must be in a person's immediate possession while carrying a concealed weapon. A temporary permit is invalid when the applicant's permit card has been delivered to the applicant.

(9) (a) Denial of an application for a permit must be based solely on the ground that the applicant fails to qualify under the criteria listed in subsection (3). Denial of an application for a permit must be accompanied by a written statement from the issuing authority stating the reason for denial.

(b) Denial of an application for a permit may be

appealed by the applicant, without cost to the applicant, to the district court of the county in which the applicant resides, under the procedures specified in Title 27, chapter 7.

(10) The fee for the original issuance of a permit is \$75. The fee must be collected by the authority issuing the permit. The fee must be distributed as follows:

(a) \$50 must be paid to the issuing authority for the purpose of enforcing [this act]; and

(b) \$25 must be deposited in the state special revenue fund to be used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet must be prepared by the department of justice and must be given by the issuing authority to each applicant for a permit.

(11) A permitholder may renew a permit if he applies for renewal not more than 90 days before the expiration date of the permit. The fee for the renewal of a permit is \$25. The fee must be collected by the authority renewing the permit and must be paid to the issuing authority for the purpose of enforcing [this act]. A renewed permit must take effect on the expiration date of the prior permit and is valid for a term of 5 years. A permitholder who applies for a renewal after the expiration date of the permit shall pay

1 a late renewal penalty of \$10 in addition to the renewal  
 2 fee. If the permitholder applies for a renewal within 1 year  
 3 of the expiration date, the issuing authority may require  
 4 him to apply for a new permit under the provisions of this  
 5 section. If the permitholder applies for renewal more than 1  
 6 year after the expiration date, the issuing authority shall  
 7 require him to apply for a new permit under the provisions  
 8 of this section.

9 (12) A record of the application and permit must be  
 10 kept by the issuing authority. The record must contain the  
 11 date of the application, the date the permit was issued, the  
 12 name of the permitholder, the name of the person issuing the  
 13 permit, and a copy of the application. The record must be  
 14 signed by the permitholder. A copy of the record must be  
 15 mailed to and kept by the identification bureau of the  
 16 department of justice and must contain an original set of  
 17 fingerprints.

18 (13) (a) A permitholder shall carry the permit card  
 19 when carrying a concealed weapon.

20 (b) A permitholder who carries a concealed weapon  
 21 without a valid permit card in his possession is subject to  
 22 prosecution under 45-8-316. It is an affirmative defense  
 23 under this subsection that the defendant has a current  
 24 permit issued pursuant to this section.

25 (14) A permitholder shall inform any uniformed law

1 enforcement officer or any person who identifies himself as  
 2 a law enforcement officer, upon being stopped or detained by  
 3 such officer, that he is exercising his permit to carry a  
 4 concealed weapon. The permitholder shall also exhibit the  
 5 permit upon the demand of any law enforcement officer. A  
 6 violation of the provisions of this subsection constitutes a  
 7 misdemeanor punishable by a fine of not more than \$100.

8 (15) Within 30 days after changing his permanent  
 9 address, a permitholder shall notify the issuing authority  
 10 in his new area of residence that he is permitted to carry a  
 11 concealed weapon. Failure to comply with this subsection  
 12 constitutes a civil violation punishable by a fine of not  
 13 more than \$25.

14 (16) Within 30 days after a permit card is lost or  
 15 destroyed, the permitholder shall notify the authority  
 16 issuing the permit of the loss or destruction of the permit  
 17 card. Failure to comply with this subsection constitutes a  
 18 civil violation punishable by a fine of not more than \$25.

19 (17) In the event that a permit card is lost or  
 20 destroyed, the permit is automatically invalid. The  
 21 permitholder may obtain a duplicate upon payment of a \$5 fee  
 22 to the issuing authority and upon furnishing a notarized  
 23 statement to the issuing authority that such permit card has  
 24 been lost or destroyed.

25 (18) (a) Except as provided in subsection (18)(b), a

permitholder may not be prohibited by a local judicial order or by local ordinance or resolution enacted pursuant to 45-8-351(2)(a) from carrying a concealed weapon in particular places.

(b) A permit issued in accordance with this section does not authorize a person to carry a concealed weapon into a police, sheriff's, or highway patrol station; a detention facility, prison, or jail; any courtroom or judge's chamber; or any public meeting of an elected board, council, or commission provided that such board, council, or commission has adopted an ordinance or resolution that prohibits the bringing of a firearm into its meeting and has posted notice of the ordinance or resolution in a conspicuous place.

(19) A permit issued under this section must be revoked if the permitholder:

(a) becomes ineligible under the criteria set forth in subsection (3); or

(b) is determined to be under the influence of an intoxicating substance in a public place while carrying a concealed weapon. For the purpose of this subsection, the presumptions of whether a person is under the influence are the same as those specified in 61-8-401. Chemical, blood, breath, or urine tests may be administered by a law enforcement officer under the provisions set forth in 61-8-402.

(20) (a) A law enforcement officer may temporarily impound the weapon of a permitholder if he believes in good faith that the permitholder is under the influence of an intoxicating substance.

(b) If the permitholder is found not to be under the influence of an intoxicating substance by a test administered under the provisions of subsection (19)(b), the law enforcement officer shall return the weapon immediately to the permitholder.

(c) In no case may the weapon be impounded for a period longer than 10 days, and it must be returned to the permitholder within that time unless the law enforcement officer can prove the weapon was obtained illegally by the permitholder.

(21) A county attorney, upon application of a law enforcement officer, may apply to the district court for an order to show cause why a person's permit to carry a concealed weapon should not be revoked. Upon order of the court, after notice and opportunity for hearing, the permit shall be revoked and the permitholder shall immediately surrender the permit to the issuing authority for the area in which he resides. The date of the revocation must be noted upon any records kept by the issuing authority and the identification bureau of the department of justice."

**Section 3.** 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 rifle, shotgun, or handgun.

(2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and handguns. A Except as provided in subsection (2)(b), 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 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) Except as provided in 45-8-319(18)(b), a local government may not regulate a person who has a valid permit to carry a concealed weapon issued pursuant to 45-8-319.

(b)(c) 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 4. Existing permits.** A permit to carry a concealed weapon issued prior to [the effective date of this act] is valid until the expiration date of the permit. A person holding such a permit is eligible for permit renewal under the provisions of 45-8-319(11).

**Section 5. Codification instruction.** [Section 4] is 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 [section 4].

**Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-



## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB070, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the requirements for obtaining a permit to carry a concealed weapon; providing for the form of a permit card; providing for issuance of a temporary permit; providing for fees and late renewal fees; providing for the distribution of fees; providing for record keeping requirements; providing for revocation of a permit; and amending section 45-8-317, 45-8-319, and 45-8-351, MCA.

ASSUMPTIONS:

1. There are approximately 650 permits outstanding and the number will increase to 1500 for the biennium with passage of the bill.
2. Permits will be effective for a two year period.
3. Original issuance fee is \$75, \$50 to local authorizing agency and \$25 to a state special revenue account. Local authorizing agencies will receive renewal fees (\$25), late renewal penalties (\$10), and duplicate permit fees (\$5).
4. Department of Justice will be responsible for the preparation and distribution of pamphlets to local agencies. Will print 4000 copies of a two page, one color pamphlet in FY90 at \$ .08 a copy.
5. Department of Justice will be responsible for providing the application forms, the permit cards, and laminating. Photographs will be taken at local driver examination stations.
6. 50% of all applications will require an FBI fingerprint check.
7. State costs other than the pamphlets, will be supported with general fund.
8. Revenues will decline following initial implementation of bill, there will be a decrease of original permit issuances and an increase in permit renewal fees.

Ray Shackelford 1/12/89  
RAY SHACKLEFORD, BUDGET DIRECTOR DATE  
OFFICE OF BUDGET AND PROGRAM PLANNING

Jerry L. Driscoll 1-13-88  
JERRY L. DRISCOLL, PRIMARY SPONSOR DATE

Fiscal Note for HB070, as introduced

**HB 70**

FISCAL IMPACT:

Proposed  
Law

<u>Expenditures:</u>	<u>FY90</u>	<u>FY91</u>
Operating Expenses	\$12,450	\$ 4,200
<u>Funding Sources:</u>		
State Special	\$ 300	\$ -0-
General Fund	<u>12,150</u>	<u>4,200</u>
	\$12,450	\$ 4,200
<u>Revenue:</u>		
State Special	\$27,500	\$10,000
Local Government	<u>55,000</u>	<u>20,000</u>
	\$82,500	\$30,000

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Bill refers to "Identification Bureau of the Department of Justice", reference should be to Department of Justice only.

APPROVED BY COMMITTEE  
ON JUDICIARY

## HOUSE BILL NO. 70

INTRODUCED BY DRISCOLL, GIACOMETTO, THOMAS, GILBERT

CLARK, GRADY, ROTH, HARPER, REHBERG

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REQUIREMENTS FOR OBTAINING A PERMIT TO CARRY A CONCEALED WEAPON HANDGUN; PROVIDING FOR THE FORM OF A PERMIT CARD; PROVIDING FOR ISSUANCE OF A TEMPORARY PERMIT; PROVIDING FOR FEES ~~AND DATE-RENEWAL-FEES~~; PROVIDING FOR THE DISTRIBUTION OF FEES; PROVIDING FOR RECORDKEEPING REQUIREMENTS; PROVIDING FOR REVOCATION OF A PERMIT; AND AMENDING SECTIONS 45-8-317, AND 45-8-319, AND 45-8-351, MCA."

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

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

"45-8-317. **Exceptions.** Section 45-8-316 does 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 PERSON IN POSSESSION OF A VALID HUNTING LICENSE AND ACTIVELY HUNTING DURING AN OFFICIAL HUNTING SEASON IN AN AREA WHERE HUNTING IS ALLOWED;

~~†6†(7) a person authorized--by~~ WITH A VALID PERMIT UNDER 45-8-319 a-judge-of-a-district-court-of-this-state the sheriff-of-a-county-or-the-chief-of-police-of-a-municipality ~~to-carry-a-weapon; or~~

~~†7†(8) the carrying of arms on one's own premises or at one's home or place of business."~~

**Section 2.** Section 45-8-319, MCA, is amended to read:

"45-8-319. Permits PERMIT to carry A concealed weapons HANDGUN -- records -- fees -- revocation. (1) The legislature finds and declares as a matter of public policy that it is necessary to establish statewide uniform standards for issuing permits A PERMIT to carry A concealed weapons HANDGUN. The legislature intends that a law-abiding citizen of this state who qualifies under the provisions of this section may not arbitrarily or subjectively be denied a permit to carry a concealed weapon HANDGUN.

~~††(2) Any-judge-of-a-district-court-of-this-state-may grant-permission The sheriff of a THE county or the chief of police of a municipality-in-the-county CITY OF THE FIRST OR SECOND CLASS in which the applicant resides shall, within 30 days after the filing of an application, issue or deny a~~

1 permit to the applicant to carry or bear a concealed or  
 2 otherwise,--a pistol--or--revolver HANDGUN for a term not  
 3 exceeding--1-year of 2 years. IF THE AUTHORITY TO WHICH  
 4 APPLICATION IS MADE CANNOT ADEQUATELY CHECK THE APPROPRIATE  
 5 RECORDS AND PROCESS THE APPLICATION IN 30 DAYS, THE  
 6 AUTHORITY MAY INFORM THE APPLICANT IN WRITING THAT AN  
 7 ADDITIONAL 30 DAYS IS NECESSARY. THERE MUST NOT BE MORE THAN  
 8 ONE 30-DAY EXTENSION. A permit is valid for any lawfully  
 9 possessed firearm HANDGUN and is valid throughout the state.

10 (3) A permit may not be issued to a person who:

11 (a) is not a citizen of the United States or who has  
 12 not been a resident of Montana THE JURISDICTION OF THE  
 13 AUTHORITY TO WHICH APPLICATION IS MADE for the 6 months  
 14 immediately preceding the date of the application;. THERE IS  
 15 NO RESIDENCY REQUIREMENT FOR A PERSON WHO MAKES A SUBSEQUENT  
 16 APPLICATION IN ANOTHER JURISDICTION AFTER THE FIRST  
 17 APPLICATION IS GRANTED.

18 (b) is less than 18 years of age;

19 (c) has been convicted of a felony under federal law  
 20 or the law of any state;

21 (d) has been convicted, within a 3-year period prior  
 22 to the date of the application, of:

23 (i) assault;

24 (ii) a first offense for carrying a concealed weapon  
 25 HANDGUN;

1 (iii) resisting arrest;

2 (iv) domestic abuse;

3 (v) disorderly conduct;

4 (VI) OBSTRUCTING A PEACE OFFICER;

5 {vi}(VII) voter coercion, as provided under 13-35-218;

6 or

7 {vii}(VIII) accountability for any of these offenses  
 8 under the provisions of Title 45, chapter 2, part 3;

9 (e) is-an-adjudicated-drug-or-alcohol-abuser; HAS BEEN  
 10 CONVICTED OF ANY COMBINATION OF TWO OR MORE OFFENSES UNDER  
 11 61-8-401 AND 61-8-406 OR OF A POSSESSION OFFENSE UNDER  
 12 CHAPTER 9 OF THIS TITLE;

13 (f) is adjudicated--mentally--incompetent; DETAINED  
 14 PENDING HEARING OR TRIAL, HAS BEEN ADJUDICATED TO BE  
 15 SERIOUSLY MENTALLY ILL UNDER TITLE 53, CHAPTER 21, PART 1,  
 16 OR HAS BEEN DIAGNOSED BY A PROFESSIONAL PERSON, AS DEFINED  
 17 IN 53-21-102, AND HIRED BY THE PERSON IN A PRIVATE SETTING,  
 18 TO HAVE A CHRONIC MENTAL DISORDER OR CHRONIC SERIOUS MENTAL  
 19 ILLNESS, AS DEFINED IN 53-21-102; OR

20 (G) IS UNDER PROSECUTION FOR AN OFFENSE REFERRED TO IN  
 21 SUBSECTIONS (3)(C) THROUGH (3)(E).

22 {2}{4} All--applications--for--such--permission An  
 23 application for a permit must be made by petition filed with  
 24 the clerk-of-the-district-court sheriff or chief of police.  
 25 No-charge-may-be-made-for-the-filing-of--the--petition; The

1 application shall MUST be completed, under oath, on a form  
 2 prescribed by the-identification-bureau-of the department of  
 3 justice and must contain the following information:

4 (a) the applicant's name, date and place of birth,  
 5 occupation, height, weight, sex, race, and color of hair and  
 6 eyes;

7 (b) the applicant's residential and occupational  
 8 addresses;

9 (c) the applicant's fingerprints, which must be placed  
 10 on the application by the law enforcement officer receiving  
 11 the application;

12 (d) a list of any arrests or convictions of the  
 13 applicant for criminal offenses;

14 (e) the names of two personal references who ARE NOT  
 15 RELATIVES AND WHO reside in the county where the application  
 16 is made and who may attest to the applicant's good moral  
 17 character and peaceable disposition;

18 (f) a statement that the applicant has been furnished  
 19 a copy of Title 45, chapter 8, part 3, and Title 45, chapter  
 20 3, and is knowledgeable of the provisions contained therein;

21 (g) a conspicuous warning that the application is  
 22 executed under oath and that a false answer to any question  
 23 or the submission of any false document by the applicant  
 24 subjects the applicant to a criminal prosecution under  
 25 45-7-202; and

1 (h) a statement that the applicant desires a concealed  
 2 weapon HANDGUN permit as a means of lawful self-defense.

3 (3)--The--applicant--shall--if--personally--unknown--to--the  
 4 judge--furnish--proof--by--a--credible--witness--of--his--good--moral  
 5 character--and--peaceable--disposition--

6 (4)--No--such--permission--shall--be--granted--any--person  
 7 who--is--not--a--citizen--of--the--United--States--and--who--has--not  
 8 been--an--actual--bona--fide--resident--of--the--state--of--Montana  
 9 for--6--months--immediately--next--preceding--the--date--of--such  
 10 application.

11 (5)--A--record--of--permission--granted--shall--be--kept--by  
 12 the--clerk--of--the--court--The--record--shall--state--the--date--of  
 13 the--application--the--date--of--the--permission--the--name--of--the  
 14 person--to--whom--permission--is--granted--the--name--of--the--judge  
 15 granting--the--permission--and--the--name--of--the--person--if--any--  
 16 by--whom--good--moral--character--and--peaceable--disposition--are  
 17 proved--The--record--must--be--signed--by--the--person--who--is  
 18 granted--such--permission--

19 (5) Before a permit is issued, the sheriff of OR chief  
 20 of police shall check the appropriate local MUNICIPAL,  
 21 COUNTY, and state law enforcement records and may check  
 22 national law enforcement records for information relating to  
 23 the applicant. The sheriff or chief of police may consider  
 24 any information received in relation to the applicant's  
 25 qualifications and the protection of society. The sheriff

or chief of police may not be held liable for any damages resulting from granting a permit if the sheriff or chief of police requested information from local and state law enforcement records and considered any information received.

(6) The clerk sheriff or the chief of police shall thereupon issue under his hand and the seal of the court a certificate, a permit in a convenient card form so that the same it may be carried in the pocket, stating: The card form must be prescribed by the identification bureau of the department of justice. The identification bureau, WHICH shall make available to the issuing authority any equipment required to comply with this subsection. The permit card shall:

(a) show a full-face photograph of the permitholder;

(b) state the date of issuance and the date of expiration of the permit; and

(c) list the permitholder's name, date of birth, address, height, weight, sex, race, and color of hair and eyes.

"Permission to authorize him to carry or bear, concealed or otherwise, a pistol or revolver for the period of from the date hereof has been granted by the judge of the district court of the judicial district of the state of Montana in and for the county of:

Witness the hand of the clerk and the seal of said

court this day of 19

clerk

clerk

(7) The date of the certificate shall be the date of the granting of such permission. The certificate permit card shall bear upon its face the signature of the person receiving the same permit. A permit card is not valid unless it has been signed by the permitholder.

(8) Upon good cause shown the judge granting such permission may, in his discretion without notice to the person receiving such permission, revoke the same. The date of the revocation shall be noted by the clerk upon the record kept by him.

(9) All permissions to carry or bear concealed weapons granted before March 3, 1919, are hereby revoked.

(8) The issuing authority shall issue a temporary permit to an approved applicant, on a form prescribed by the identification bureau of the department of justice, permitting the applicant to carry a concealed weapon HANDGUN until the permanent card is issued. A temporary permit must be in a person's immediate possession while carrying a concealed weapon HANDGUN. A temporary permit is invalid when the applicant's permit card has been delivered to the applicant.

(9) (a) Denial of an application for a permit must be

1 based solely on the ground that the applicant fails to  
 2 qualify under the criteria listed in subsection (3). Denial  
 3 of an application for a permit must be accompanied by a  
 4 written statement from the issuing authority stating the  
 5 reason for denial.

6 (b) Denial of an application for a permit may be  
 7 appealed by the applicant, without cost TAXATION OF  
 8 PREHEARING COSTS to the applicant, AND THE GRANT OF A PERMIT  
 9 MAY BE APPEALED BY ANOTHER AUTHORITY AUTHORIZED TO GRANT THE  
 10 APPLICANT A PERMIT, to the district court of the county in  
 11 which the applicant resides, under the procedures specified  
 12 in Title 27, chapter 7. THE RECORD ON APPEAL IS LIMITED TO  
 13 THE APPLICATION, THE DENIAL IF AN APPLICATION WAS DENIED,  
 14 AND INFORMATION AN APPELLANT ISSUING AUTHORITY ADDS TO THE  
 15 RECORD. THE COURT SHALL DECIDE THE APPEAL AS QUICKLY AS  
 16 POSSIBLE AND IN ANY EVENT WITHIN 6 MONTHS.

17 (10) The fee for the original issuance of a permit is  
 18 \$75 \$125. The fee must be collected by the authority issuing  
 19 the permit WHEN THE APPLICATION IS MADE. The fee must be  
 20 distributed as follows:

21 (a) \$50 \$100 must be paid to the issuing authority for  
 22 the purpose of enforcing {this--act} 45-8-351 AND THIS  
 23 SECTION; and

24 (b) \$25 must be deposited in AN ACCOUNT IN the state  
 25 special revenue fund to be used exclusively for THE

1 ADMINISTRATION OF THIS SECTION, the printing and  
 2 distribution of a pamphlet on the legal limits of the use of  
 3 firearms, AND ON firearms safety, and the preemptive nature  
 4 of state law TO OPERATE OR TO GRANT FUNDS TO PRIVATE  
 5 ENTITIES FOR THE OPERATION OF PROGRAMS TEACHING HANDGUN  
 6 SAFETY AND WHEN FIREARMS MAY BE LEGALLY USED IN DEFENSE OF  
 7 PERSONS AND PROPERTY. The pamphlet must be prepared by the  
 8 department of justice and must be given by the issuing  
 9 authority to each applicant for a permit.

10 (11) A permitholder may renew a permit if he THE  
 11 PERMITHOLDER RESIDES IN THE JURISDICTION OF THE AUTHORITY  
 12 THAT ISSUED THE PERMIT AND THE PERMITHOLDER applies for  
 13 renewal not more than 90 days before the expiration date of  
 14 the permit ON A FORM PRESCRIBED BY THE DEPARTMENT OF  
 15 JUSTICE. The fee for the renewal of a permit is \$25. The fee  
 16 must be collected by the authority renewing the permit and  
 17 must be paid to the issuing authority for the purpose of  
 18 enforcing {this-act} 45-8-351 AND THIS SECTION. A renewed  
 19 permit must take effect on the expiration date of the prior  
 20 permit and is valid for a term of 5 years. A permitholder  
 21 who applies for a renewal after the expiration date of the  
 22 permit shall pay a late renewal penalty of \$10 in addition  
 23 to the renewal fee. If the permitholder applies for a  
 24 renewal within 1 year of the expiration date, the issuing  
 25 authority may require him to apply for a new permit under

1 the provisions of this section. If the permitholder applies  
 2 for renewal more than 1 year after the expiration date, the  
 3 issuing authority shall require him to apply for a new  
 4 permit under the provisions of this section.

5 (12) A record of the application and permit must be  
 6 kept by the issuing authority. The record must contain the  
 7 date of the application, the date the permit was issued, the  
 8 name of the permitholder, the name of the person issuing the  
 9 permit, and a copy of the application. The record must be  
 10 signed by the permitholder. A copy of the record must be  
 11 mailed to and kept by the identification bureau of the  
 12 department of justice and must contain an original set of  
 13 fingerprints. A SHERIFF, OR CHIEF OF POLICE IF THE APPLICANT  
 14 RESIDES IN A CITY OF THE FIRST OR SECOND CLASS, WHO ISSUES A  
 15 PERMIT SHALL ALSO MAIL A COPY OF THE RECORD TO THE OTHER  
 16 AUTHORITY AUTHORIZED TO ISSUE A PERMIT TO THE PERSON GRANTED  
 17 A PERMIT.

18 (13) (a) A permitholder shall carry the permit card  
 19 when carrying a concealed weapon HANDGUN.

20 (b) A permitholder who carries a concealed weapon  
 21 without a valid permit card in his possession is subject to  
 22 prosecution under 45-8-316. It is an-affirmative-defense  
 23 under-this-subsection A MITIGATING FACTOR that the defendant  
 24 has a current permit issued pursuant to this section.

25 (14) A permitholder WHO IS CARRYING A CONCEALED HANDGUN

1 shall inform any uniformed law enforcement officer or any  
 2 person who identifies himself as a law enforcement officer,  
 3 upon being stopped or detained by such officer, that he is  
 4 exercising his permit to carry a concealed weapon HANDGUN.  
 5 The permitholder shall also exhibit the permit upon the  
 6 demand of any law enforcement officer. A violation of the  
 7 provisions-of this subsection constitutes-a-misdemeanor IS A  
 8 CRIMINAL OFFENSE punishable by a fine of not more than \$100.

9 (15) Within 30 days after changing his permanent  
 10 address, a permitholder shall notify the issuing authority  
 11 in his new area of residence that he is permitted to carry a  
 12 concealed weapon HANDGUN. Failure to comply with this  
 13 subsection constitutes IS a civil violation punishable by a  
 14 fine PENALTY of not more than \$25.

15 (16) Within 30 days after a permit card is lost or  
 16 destroyed, the permitholder shall notify the authority  
 17 issuing the permit of the loss or destruction of the permit  
 18 card. Failure to comply with this subsection constitutes IS  
 19 a civil violation punishable by a fine PENALTY of not more  
 20 than \$25.

21 (17) In the event that a permit card is lost or  
 22 destroyed, the permit is automatically invalid. The  
 23 permitholder may obtain a duplicate upon payment of a \$5 fee  
 24 to the issuing authority and upon furnishing a notarized  
 25 statement to the issuing authority that such permit card has



1 been lost or destroyed.

2 ~~{18}{a} Except as provided in subsection {18}{b}, a~~  
 3 ~~permitholder may not be prohibited by a local judicial order~~  
 4 ~~or by local ordinance or resolution enacted pursuant to~~  
 5 ~~45-8-35{2}{a} from carrying a concealed weapon in~~  
 6 ~~particular places.~~

7 ~~{b} A permit issued in accordance with this section~~  
 8 ~~does not authorize a person to carry a concealed weapon into~~  
 9 ~~a police, sheriff's, or highway patrol station; a detention~~  
 10 ~~facility, prison, or jail; any courtroom or judge's chamber;~~  
 11 ~~or any public meeting of an elected board, council, or~~  
 12 ~~commission provided that such board, council, or commission~~  
 13 ~~has adopted an ordinance or resolution that prohibits the~~  
 14 ~~bringing of a firearm into its meeting and has posted notice~~  
 15 ~~of the ordinance or resolution in a conspicuous place.~~

16 ~~{19}(18) A permit issued under this section must be~~  
 17 ~~revoked if the permitholder:~~

18 ~~(a) becomes ineligible under the criteria set forth in~~  
 19 ~~subsection (3); or~~

20 ~~(b) is determined to be under the influence of an~~  
 21 ~~intoxicating substance in a public place while carrying a~~  
 22 ~~concealed weapon HANDGUN. For the purpose of this~~  
 23 ~~subsection, the presumptions of whether a person is under~~  
 24 ~~the influence are the same as those specified in 61-8-401.~~  
 25 ~~Chemical, blood, breath, or urine tests may be administered~~

1 by a law enforcement officer under the provisions set forth  
 2 in 61-8-402.

3 ~~{20}(19) (a) A law enforcement officer may temporarily~~  
 4 ~~impound the weapon HANDGUN of a permitholder if he believes~~  
 5 ~~in good faith that the permitholder is under the influence~~  
 6 ~~of an intoxicating substance.~~

7 ~~(b) If the permitholder is found not to be under the~~  
 8 ~~influence of an intoxicating substance by a test~~  
 9 ~~administered under the provisions of subsection {19}{b}~~  
 10 ~~{18}{B}, the law enforcement officer shall return the weapon~~  
 11 ~~HANDGUN immediately to the permitholder.~~

12 ~~(c) In no case may the weapon HANDGUN be impounded for~~  
 13 ~~a period longer than 10 days, and it must be returned to the~~  
 14 ~~permitholder within that time unless the law enforcement~~  
 15 ~~officer can prove the weapon HANDGUN was obtained illegally~~  
 16 ~~by the permitholder.~~

17 ~~{21}(20) A county attorney, upon application of a law~~  
 18 ~~enforcement officer, may apply to the district court for an~~  
 19 ~~order to show cause why a person's permit to carry a~~  
 20 ~~concealed weapon HANDGUN should not be revoked. Upon order~~  
 21 ~~of the court, after notice and opportunity for hearing, the~~  
 22 ~~permit shall MUST be revoked and the permitholder shall~~  
 23 ~~immediately surrender the permit to the issuing authority~~  
 24 ~~for the area in which he resides. The date of the revocation~~  
 25 ~~must be noted upon any records kept by the issuing authority~~

1 ~~and the identification bureau of the department of justice."~~

2 **Section 3.** ~~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 unconcealed carrying of~~  
 10 ~~any rifle, shotgun, or handgun.~~

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

21 ~~(b) Except as provided in 45-8-319(18)(b), a local~~  
 22 ~~government may not regulate a person who has a valid permit~~  
 23 ~~to carry a concealed weapon issued pursuant to 45-8-319.~~

24 ~~(b)(c) Nothing contained herein shall allow any~~  
 25 ~~government to prohibit the legitimate display of firearms at~~

1 ~~shows or other public occasions by collectors and others,~~  
 2 ~~nor shall anything contained herein prohibit the legitimate~~  
 3 ~~transportation of firearms through any jurisdiction, whether~~  
 4 ~~in airports or otherwise."~~

5 NEW SECTION. Section 3. Existing permits. A permit to  
 6 carry a concealed weapon HANDGUN issued prior to [the  
 7 effective date of this act] is valid until the expiration  
 8 date of the permit. A person holding such a permit is  
 9 eligible for permit renewal under the provisions of  
 10 45-8-319(11).

11 NEW SECTION. Section 4. Codification instruction.  
 12 [Section 4] is intended to be codified as an integral part  
 13 of Title 45, chapter 8, part 3, and the provisions of Title  
 14 45, chapter 8, part 3, apply to [section 4].

15 NEW SECTION. Section 6. Severability. If a part of  
 16 {this act} is invalid, all valid parts that are severable  
 17 from the invalid part remain in effect. If a part of {this  
 18 act} is invalid in one or more of its applications, the part  
 19 remains in effect in all valid applications that are  
 20 severable from the invalid applications.

21 NEW SECTION. SECTION 5. NONSEVERABILITY. IT IS THE  
 22 INTENT OF THE LEGISLATURE THAT EACH PART OF [THIS ACT] IS  
 23 ESSENTIALLY DEPENDENT UPON EVERY OTHER PART, AND IF ONE PART  
 24 IS HELD UNCONSTITUTIONAL, ALL OTHER PARTS ARE INVALID.

-End-

## HOUSE BILL NO. 70

INTRODUCED BY DRISCOLL, GIACOMETTO, THOMAS, GILBERT

CLARK, GRADY, ROTH, HARPER, REHBERG

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REQUIREMENTS FOR OBTAINING A PERMIT TO CARRY A CONCEALED WEAPON HANDGUN; PROVIDING FOR THE FORM OF A PERMIT CARD; PROVIDING FOR ISSUANCE OF A TEMPORARY PERMIT; PROVIDING FOR FEES AND LATE-RENEWAL-FEES; PROVIDING FOR THE DISTRIBUTION OF FEES; PROVIDING FOR RECORDKEEPING REQUIREMENTS; PROVIDING FOR REVOCATION OF A PERMIT; AND AMENDING SECTIONS 45-8-317, AND 45-8-319, AND 45-8-351, AND 45-8-351, MCA."

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

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

"45-8-317. Exceptions. Section 45-8-316 does 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--PERSON-IN-POSSESSION-OF-A-VALID-HUNTING-LICENSE AND-ACTIVELY-HUNTING-DURING-AN-OFFICIAL-HUNTING-SEASON-IN-AN AREA-WHERE-HUNTING-IS-ALLOWED; THE CARRYING OF A CONCEALED WEAPON WHILE ACTIVELY ENGAGED IN THE SPORTS OF HUNTING OR FISHING OUTSIDE THE OFFICIAL BOUNDARIES OF ANY CITY OR TOWN;

(6)(7) a person authorized--by WITH A VALID PERMIT UNDER 45-8-319 a-judge-of-a-district-court-of-this-state the sheriff-of-a-county-or-the-chief-of-police-of-a-municipality to-carry-a-weapon; or

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

**Section 2.** Section 45-8-319, MCA, is amended to read:

"45-8-319. Permits PERMIT to carry A concealed weapons HANDGUN -- records -- fees -- revocation. (1) The legislature finds and declares as a matter of public policy that it is necessary to establish statewide uniform standards for issuing permits A PERMIT to carry A concealed weapons HANDGUN. The legislature intends that a law-abiding citizen of this state who qualifies under the provisions of this section may not arbitrarily or subjectively be denied a permit to carry a concealed weapon HANDGUN.

(1)(2) Any-judge-of-a-district-court-of-this-state-may grant-permission The sheriff of a THE county or the chief of police of a municipality-in-the-county CITY OF THE FIRST OR

SECOND CLASS in which the applicant resides shall, within 30 days after the filing of an application, issue or deny a permit to the applicant to carry or bear, a concealed or otherwise, a pistol or revolver HANDGUN for a term not exceeding--1--year of 2 years. IF THE AUTHORITY TO WHICH APPLICATION IS MADE CANNOT ADEQUATELY CHECK THE APPROPRIATE RECORDS AND PROCESS THE APPLICATION IN 30 DAYS, THE AUTHORITY MAY INFORM THE APPLICANT IN WRITING THAT AN ADDITIONAL 30 DAYS IS NECESSARY. THERE MUST NOT BE MORE THAN ONE 30-DAY EXTENSION. A permit is valid for any lawfully possessed firearm HANDGUN and is valid throughout the state.

(3) A permit may not be issued to a person who:

(a) is not a citizen of the United States or who has not been a resident of Montana THE JURISDICTION OF THE AUTHORITY TO WHICH APPLICATION IS MADE for the 6 months immediately preceding the date of the application. THERE IS NO RESIDENCY REQUIREMENT FOR A PERSON WHO MAKES A SUBSEQUENT APPLICATION IN ANOTHER JURISDICTION AFTER THE FIRST APPLICATION IS GRANTED.

(b) is less than 18 years of age;

(c) has been convicted of a felony under federal law or the law of any state;

(d) has been convicted, within a 3-year period prior to the date of the application, of:

(i) assault;

(ii) a first offense for carrying a concealed weapon HANDGUN;

(iii) resisting arrest;

(iv) domestic abuse;

(v) disorderly conduct;

(VI) OBSTRUCTING A PEACE OFFICER;

{vii}(VII) voter coercion, as provided under 13-35-218;

or

{viii}(VIII) accountability for any of these offenses under the provisions of Title 45, chapter 2, part 3;

(e) is-an-adjudicated-drug-or-alcohol-abuser; HAS BEEN CONVICTED OF ANY COMBINATION OF TWO OR MORE OFFENSES UNDER 61-8-401 AND 61-8-406 OR OF A POSSESSION OFFENSE UNDER CHAPTER 9 OF THIS TITLE;

(f) is adjudicated--mentally--incompetent; DETAINED PENDING HEARING OR TRIAL, HAS BEEN ADJUDICATED TO BE SERIOUSLY MENTALLY ILL UNDER TITLE 53, CHAPTER 21, PART 1, OR ANY OTHER SIMILAR LAW IN ANY OTHER STATE, OR HAS BEEN DIAGNOSED BY A PROFESSIONAL PERSON, AS DEFINED IN 53-21-102, AND HIRED BY THE PERSON IN A PRIVATE SETTING, TO HAVE A CHRONIC MENTAL DISORDER OR CHRONIC SERIOUS MENTAL ILLNESS, AS DEFINED IN 53-21-102; OR

(G) IS UNDER PROSECUTION FOR AN OFFENSE REFERRED TO IN SUBSECTIONS (3)(C) THROUGH (3)(E).

{2}(4) All---applications---for---such---permission An

1 application for a permit must be made by petition filed with  
 2 the clerk-of-the-district-court sheriff or chief of police.  
 3 No--charge--may--be-made-for-the-filing-of-the-petition: The  
 4 application shall MUST be completed, under oath, on a form  
 5 prescribed by the-identification-bureau-of the department of  
 6 justice and must contain the following information:

7 (a) the applicant's name, date and place of birth,  
 8 occupation, height, weight, sex, race, and color of hair and  
 9 eyes;

10 (b) the applicant's residential and occupational  
 11 addresses;

12 (c) the applicant's fingerprints, which must be placed  
 13 on the application by the law enforcement officer receiving  
 14 the application;

15 (d) a list of any arrests or convictions of the  
 16 applicant for criminal offenses;

17 (E) ANY INFORMATION NEEDED TO DETERMINE IF THE PERSON  
 18 HAS BEEN ADJUDICATED SERIOUSLY MENTALLY ILL OR HAS BEEN  
 19 DIAGNOSED TO HAVE A CHRONIC MENTAL DISORDER OR CHRONIC  
 20 SERIOUS MENTAL ILLNESS;

21 (f)(F) the names of two personal references who ARE  
 22 NOT RELATIVES AND WHO reside in the county where the  
 23 application is made and who may attest to the applicant's  
 24 good moral character and peaceable disposition;

25 (f)(G) a statement that the applicant has been

1 furnished a copy of Title 45, chapter 8, part 3, and Title  
 2 45, chapter 3, and is knowledgeable of the provisions  
 3 contained therein;

4 (g)(H) a conspicuous warning that the application is  
 5 executed under oath and that a false answer to any question  
 6 or the submission of any false document by the applicant  
 7 subjects the applicant to a criminal prosecution under  
 8 45-7-202; and

9 (h)(I) a statement that the applicant desires a  
 10 concealed weapon HANDGUN permit as a means of lawful  
 11 self-defense; AND

12 (J) A WRITTEN CONSENT AND WAIVER FOR THE RELEASE OF  
 13 MEDICAL OR COURT RECORDS AND INFORMATION NECESSARY TO  
 14 DETERMINE IF THE PERSON IS DISQUALIFIED FROM RECEIVING A  
 15 PERMIT UNDER SUBSECTION (3)(F).

16 (3)--The--applicant--shall--if--personally--unknown--to--the  
 17 judge--furnish--proof--by--a--credible--witness--of--his--good--moral  
 18 character--and--peaceable--disposition--

19 (4)--No--such--permission--shall--be--granted--any--person--who  
 20 is--not--a--citizen--of--the--United--States--and--who--has--not--been  
 21 an--actual--bona--fide--resident--of--the--state--of--Montana--for--6  
 22 months--immediately--next--preceding--the--date--of--such  
 23 application--

24 (5)--A--record--of--permission--granted--shall--be--kept--by  
 25 the--clerk--of--the--court--The--record--shall--state--the--date--of

1 the application, the date of the permission, the name of the  
 2 person to whom permission is granted, the name of the judge  
 3 granting the permission, and the name of the person, if any,  
 4 by whom good moral character and peaceable disposition are  
 5 proved. The record must be signed by the person who is  
 6 granted such permission.

7 (5) Before a permit is issued, the sheriff or chief  
 8 of police shall check the appropriate local MUNICIPAL,  
 9 COUNTY, and state law enforcement records and may check  
 10 national law enforcement records for information relating to  
 11 the applicant. THE SHERIFF OR CHIEF OF POLICE MAY ALSO  
 12 OBTAIN MEDICAL OR COURT RECORDS OR INFORMATION NECESSARY TO  
 13 DETERMINE IF THE PERSON IS DISQUALIFIED FROM RECEIVING A  
 14 PERMIT UNDER SUBSECTION (3)(F). The sheriff or chief of  
 15 police may consider any information received in relation to  
 16 the applicant's qualifications and the protection of  
 17 society. The sheriff or chief of police may not be held  
 18 liable for any damages resulting from granting a permit if  
 19 the sheriff or chief of police requested information from  
 20 local and state law enforcement records and considered any  
 21 information received.

22 (6) The clerk sheriff or the chief of police shall  
 23 thereupon issue under his hand and the seal of the court a  
 24 certificate, a permit in a convenient card form so that the  
 25 same it may be carried in the pocket, stating: The card

1 form must be prescribed by the identification bureau of the  
 2 department of justice. The identification bureau, WHICH  
 3 shall make available to the issuing authority any equipment  
 4 required to comply with this subsection. The permit card  
 5 shall:

- 6 (a) show a full-face photograph of the permitholder;
- 7 (b) state the date of issuance and the date of
- 8 expiration of the permit; and
- 9 (c) list the permitholder's name, date of birth,
- 10 address, height, weight, sex, race, and color of hair and
- 11 eyes.

12 "Permission to ---- authorizing him to carry or bear,  
 13 concealed or otherwise, a pistol or revolver for the period  
 14 of ---- from the date hereof has been granted by ---- a  
 15 judge of the district court of the ---- judicial district of  
 16 the state of Montana, in and for the county of ----

17 Witness the hand of the clerk and the seal of said  
 18 court this ---- day of ---- 19---

19  
 20 Clerk"

21 (7) The date of the certificate shall be the date of  
 22 the granting of such permission. The certificate permit card  
 23 shall bear upon its face the signature of the person  
 24 receiving the same permit. A permit card is not valid unless  
 25 it has been signed by the permitholder.

~~{8}--Upon good cause--shown--the--judge--granting--such permission--may,--in--his--discretion--without notice--to the person receiving such permission,--revoke the same. The--date of--the--revocation--shall--be--noted--by the clerk upon the record kept by him.~~

~~{9}--All permissions to carry or bear concealed weapons granted before March 3, 1919, are hereby revoked.~~

(8) The issuing authority shall issue a temporary permit to an approved applicant, on a form prescribed by the identification--bureau--of the department of justice, permitting the applicant to carry a concealed weapon HANDGUN until the permanent card is issued. A temporary permit must be in a person's immediate possession while carrying a concealed weapon HANDGUN. A temporary permit is invalid AND MUST BE SURRENDERED TO THE ISSUING AUTHORITY when the applicant's permit card has--been IS delivered to the applicant.

(9) (a) Denial of an application for a permit must be based solely on the ground that the applicant fails to qualify under the criteria listed in subsection (3). Denial of an application for a permit must be accompanied by a written statement from the issuing authority stating the reason for denial.

(b) Denial of an application for a permit may be appealed by the applicant, without cost TAXATION OF

PREHEARING COSTS to the applicant, AND THE GRANT OF A PERMIT MAY BE APPEALED BY ANOTHER AUTHORITY AUTHORIZED TO GRANT THE APPLICANT A PERMIT, to the district court of the county in which the applicant resides,--under the procedures specified in Title 27, chapter 7. THE RECORD ON APPEAL IS LIMITED TO THE APPLICATION, THE DENIAL IF AN APPLICATION WAS DENIED, AND INFORMATION AN APPELLANT ISSUING AUTHORITY ADDS TO THE RECORD. THE COURT SHALL DECIDE THE APPEAL AS QUICKLY AS POSSIBLE AND IN ANY EVENT WITHIN 6 MONTHS.

(10) The fee for the original issuance of a permit is \$75 \$125. The fee must be collected by the authority issuing the--permit WHEN THE APPLICATION IS MADE. The fee must be distributed as follows:

(a) \$50 \$100 must be paid to the issuing authority for the purpose of enforcing {this--act} 45-8-351 AND THIS SECTION; and

(b) \$25 must be deposited in AN ACCOUNT IN the state special revenue fund to be used exclusively for THE ADMINISTRATION OF THIS SECTION, the printing and distribution of a pamphlet on the legal limits of the use of firearms, AND ON firearms safety, and the preemptive--nature of--state--law TO OPERATE OR TO GRANT FUNDS TO PRIVATE ENTITIES FOR THE OPERATION OF PROGRAMS TEACHING HANDGUN SAFETY AND WHEN FIREARMS MAY BE LEGALLY USED IN DEFENSE OF PERSONS AND PROPERTY. The pamphlet must be prepared by the

1 department of justice and must be given by the issuing  
 2 authority to each applicant for a permit.

3 (11) A permitholder may renew a permit if he THE  
 4 PERMITHOLDER RESIDES IN THE JURISDICTION OF THE AUTHORITY  
 5 THAT ISSUED THE PERMIT AND THE PERMITHOLDER applies for  
 6 renewal not more than 90 days before the expiration date of  
 7 the permit ON A FORM PRESCRIBED BY THE DEPARTMENT OF  
 8 JUSTICE. The fee for the renewal of a permit is \$25. The fee  
 9 must be collected by the authority renewing the permit and  
 10 must be paid to the issuing authority for the purpose of  
 11 enforcing ~~this--act~~ 45-8-351 AND THIS SECTION. A renewed  
 12 permit must take effect on the expiration date of the prior  
 13 permit and is valid for a term of 5 years. A permitholder  
 14 who applies for a renewal after the expiration date of the  
 15 permit shall pay a late renewal penalty of \$10 in addition  
 16 to the renewal fee. If the permitholder applies for a  
 17 renewal within 1 year of the expiration date, the issuing  
 18 authority may require him to apply for a new permit under  
 19 the provisions of this section. If the permitholder applies  
 20 for renewal more than 1 year after the expiration date, the  
 21 issuing authority shall require him to apply for a new  
 22 permit under the provisions of this section.

23 (12) A record of the application and permit must be  
 24 kept by the issuing authority. The record must contain the  
 25 date of the application, the date the permit was issued, the

1 name of the permitholder, the name of the person issuing the  
 2 permit, and a copy of the application. The record must be  
 3 signed by the permitholder. A copy of the record must be  
 4 mailed to and kept by the identification bureau of the  
 5 department of justice and must contain an original set of  
 6 fingerprints. A SHERIFF, OR CHIEF OF POLICE IF THE APPLICANT  
 7 RESIDES IN A CITY OF THE FIRST OR SECOND CLASS, WHO ISSUES A  
 8 PERMIT SHALL ALSO MAIL A COPY OF THE RECORD TO THE OTHER  
 9 AUTHORITY AUTHORIZED TO ISSUE A PERMIT TO THE PERSON GRANTED  
 10 A PERMIT.

11 (13) (a) A permitholder shall carry the permit card  
 12 when carrying a concealed ~~weapon~~ HANDGUN.

13 (b) A permitholder who carries a concealed weapon  
 14 without a valid permit card in his possession is subject to  
 15 prosecution under 45-8-316. It is ~~an--affirmative--defense~~  
 16 ~~under this subsection~~ A MITIGATING FACTOR that the defendant  
 17 has a current permit issued pursuant to this section.

18 (14) A permitholder WHO IS CARRYING A CONCEALED HANDGUN  
 19 shall inform any uniformed law enforcement officer or any  
 20 person who identifies himself as a law enforcement officer,  
 21 upon being stopped or detained by such officer, that he is  
 22 exercising his permit to carry a concealed ~~weapon~~ HANDGUN.  
 23 The permitholder shall also exhibit the permit upon the  
 24 demand of any law enforcement officer. A violation of ~~the~~  
 25 ~~provisions of this subsection constitutes a misdemeanor~~ IS A



1 CRIMINAL OFFENSE punishable by a fine of not more than \$100.

2 (15) Within 30 days after changing his permanent  
3 address, a permitholder shall notify the issuing authority  
4 in his new area of residence that he is permitted to carry a  
5 concealed weapon HANDGUN. Failure to comply with this  
6 subsection constitutes IS a civil violation punishable by a  
7 fine PENALTY of not more than \$25.

8 (16) Within 30 days after a permit card is lost or  
9 destroyed, the permitholder shall notify the authority  
10 issuing the permit of the loss or destruction of the permit  
11 card. Failure to comply with this subsection constitutes IS  
12 a civil violation punishable by a fine PENALTY of not more  
13 than \$25.

14 (17) In the event that a permit card is lost or  
15 destroyed, the permit is automatically invalid. The  
16 permitholder may obtain a duplicate upon payment of a \$5 fee  
17 to the issuing authority and upon furnishing a notarized  
18 statement to the issuing authority that such permit card has  
19 been lost or destroyed.

20 ~~(18)-(a)-Except-as-provided-in-subsection-(18)(b), a~~  
21 ~~permitholder may not be prohibited by a local judicial order~~  
22 ~~or by local ordinance or resolution enacted pursuant to~~  
23 ~~45-8-351(2)(a) from carrying a concealed weapon in~~  
24 ~~particular places.~~

25 ~~(b)-A permit issued in accordance with this section~~

1 ~~does not authorize a person to carry a concealed weapon into~~  
2 ~~a police, sheriff's, or highway patrol station, a detention~~  
3 ~~facility, prison, or jail; any courtroom or judge's chamber,~~  
4 ~~or any public meeting of an elected board, council, or~~  
5 ~~commission provided that such board, council, or commission~~  
6 ~~has adopted an ordinance or resolution that prohibits the~~  
7 ~~bringing of a firearm into its meeting and has posted notice~~  
8 ~~of the ordinance or resolution in a conspicuous place.~~

9 (18) (A) EXCEPT AS PROVIDED IN SUBSECTION (18)(B), A  
10 PERMITHOLDER MAY NOT BE PROHIBITED BY A LOCAL JUDICIAL ORDER  
11 OR BY A LOCAL ORDINANCE OR RESOLUTION ENACTED PURSUANT TO  
12 45-8-351(2)(A) FROM CARRYING A CONCEALED WEAPON IN  
13 PARTICULAR PLACES.

14 (B) A PERMIT ISSUED IN ACCORDANCE WITH THIS SECTION  
15 DOES NOT AUTHORIZE A PERSON TO CARRY A CONCEALED WEAPON INTO  
16 A POLICE, SHERIFF'S, OR HIGHWAY PATROL STATION; A DETENTION  
17 FACILITY, PRISON, OR JAIL; ANY COURTROOM OR JUDGE'S CHAMBER;  
18 OR ANY PUBLIC MEETING OF AN ELECTED BOARD, COUNCIL, OR  
19 COMMISSION PROVIDED THAT SUCH BOARD, COUNCIL, OR COMMISSION  
20 HAS ADOPTED AN ORDINANCE OR RESOLUTION THAT PROHIBITS THE  
21 BRINGING OF A FIREARM INTO ITS MEETING AND HAS POSTED NOTICE  
22 OF THE ORDINANCE OR RESOLUTION IN A CONSPICUOUS PLACE; OR  
23 ANY PUBLIC ASSEMBLY, PUBLICLY OWNED BUILDING, PARK UNDER ITS  
24 JURISDICTION, TAVERN, OR SCHOOL, PROVIDING THAT THE LOCAL  
25 GOVERNING AUTHORITY HAS ADOPTED AN ORDINANCE OR RESOLUTION

1 CONTAINING THE PROHIBITION.

2 {19}{18}(19) A permit issued under this section must be  
3 revoked if the permitholder:

4 (a) becomes ineligible under the criteria set forth in  
5 subsection (3); or

6 (b) is determined to be under the influence of an  
7 intoxicating substance in a public place while carrying a  
8 concealed weapon HANDGUN. For the purpose of this  
9 subsection, the presumptions of whether a person is under  
10 the influence are the same as those specified in 61-8-401.  
11 Chemical, blood, breath, or urine tests may be administered  
12 by a law enforcement officer under the provisions set forth  
13 in 61-8-402.

14 {20}{19}(20) (a) A law enforcement officer may  
15 temporarily impound the weapon HANDGUN of a permitholder if  
16 he believes in good faith that the permitholder is under the  
17 influence of an intoxicating substance.

18 (b) If the permitholder is found not to be under the  
19 influence of an intoxicating substance by a test  
20 administered under the provisions of subsection {19}(b) {18}  
21 (19)(B), the law enforcement officer shall return the weapon  
22 HANDGUN immediately to the permitholder.

23 (c) In no case may the weapon HANDGUN be impounded for  
24 a period longer than 10 days, and it must be returned to the  
25 permitholder within that time unless the law enforcement

1 officer can prove the weapon HANDGUN was obtained illegally  
2 by the permitholder.

3 {21}{20}(21) A county attorney, upon application of a  
4 law enforcement officer, may apply to the district court for  
5 an order to show cause why a person's permit to carry a  
6 concealed weapon HANDGUN should not be revoked. Upon order  
7 of the court, after notice and opportunity for hearing, the  
8 permit shall MUST be revoked and the permitholder shall  
9 immediately surrender the permit to the issuing authority  
10 for the area in which he resides. The date of the revocation  
11 must be noted upon any records kept by the issuing authority  
12 and the identification bureau of the department of justice."

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

14 "45-8-351.--Restriction-on-local-government--regulation  
15 of--firearms.---{1}--Except-as-provided-in-subsection-{2},--no  
16 county,--city,--town,--consolidated-local-government,--or--other  
17 local--government-unit-may-prohibit,--register,--tax,--license,  
18 or-regulate-the-purchase,--sale-or-other-transfer--{including  
19 delay--in--purchase,--sale,--or--other-transfer},--ownership,  
20 possession,--transportation,--use,--or-unconcealed-carrying--of  
21 any-rifle,--shotgun,--or-handgun.

22 {2}--{a}--For-public-safety-purposes,--a-city-or-town-may  
23 regulate--the-discharge-of-rifles,--shotguns,--and-handguns.---A  
24 Except-as-provided-in-subsection-{2}(b),--a county,--city,  
25 town,--consolidated--local--government,--or--other--local

government-unit--has--power--to--prevent--and--suppress--the  
 carrying--of--concealed-weapons,--the--carrying--of--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}--Except--as--provided--in--45-8-319(18){b},--a--local  
 government--may--not--regulate--a--person--who--has--a--valid--permit  
 to--carry--a--concealed--weapon--issued--pursuant--to--45-8-319.

{b}{c}--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 3. 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 rifle, shotgun, or handgun.

(2) (a) For public safety purposes, a city or town may

regulate the discharge of rifles, shotguns, and handguns. A  
Except as provided in subsection (2)(b), 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 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) Except as provided in 45-8-319(18)(b), a local  
 government may not regulate a person who has a valid permit  
 to carry a concealed weapon issued pursuant to 45-8-319.

{b}{c} 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."

**NEW SECTION. Section 4. Existing permits.** A permit to  
 carry a concealed weapon HANDGUN issued prior to [the  
 effective date of this act] is valid until the expiration  
 date of the permit. A person holding such a permit is  
 eligible for permit renewal under the provisions of  
 45-8-319(11).

**NEW SECTION. Section 5. Codification instruction.**

1 [Section 4] is intended to be codified as an integral part  
2 of Title 45, chapter 8, part 3, and the provisions of Title  
3 45, chapter 8, part 3, apply to [section 4].

4 ~~NEW-SECTION. --Section 6. --Severability. --If a part of~~  
5 ~~{this--act}--is--invalid,--all valid parts that are severable~~  
6 ~~from the invalid part remain in effect. --If a part of--{this~~  
7 ~~act}--is--invalid in one or more of its applications,--the part~~  
8 ~~remains--in--effect--in--all--valid--applications--that--are~~  
9 ~~severable from the invalid applications.~~

10 NEW SECTION. SECTION 6. NONSEVERABILITY. IT IS THE  
11 INTENT OF THE LEGISLATURE THAT EACH PART OF [THIS ACT] IS  
12 ESSENTIALLY DEPENDENT UPON EVERY OTHER PART, AND IF ONE PART  
13 IS HELD UNCONSTITUTIONAL, ALL OTHER PARTS ARE INVALID.

-End-