

HOUSE BILL 582

Introduced by D. Brown

2/10	Introduced
2/10	Referred to Judiciary
2/10	First Reading
2/16	Hearing
2/17	Tabled in Committee
2/20	Committee Report--Bill Passed as Amended
2/22	2nd Reading Passed as Amended
2/24	3rd Reading Passe
	Transmitted to Senate
3/01	First Reading
3/01	Referred to Judiciary
3/05	Hearing
3/09	Tabled in Committee

1 House BILL NO. 582
2 INTRODUCED BY Dave Brown
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A
5 WRITTEN STATEMENT OF A SHERIFF'S CAUSE FOR DENIAL OF A
6 CONCEALED WEAPONS PERMIT BE GIVEN THE APPLICANT; CLARIFYING
7 THE APPEAL OF THE DENIAL OF A PERMIT; ALLOWING THE
8 FAMILIARITY WITH FIREARMS PREREQUISITE TO A PERMIT TO BE
9 SATISFIED BY THE APPLICANT PHYSICALLY SHOWING THE SHERIFF
10 THAT THE APPLICANT KNOWS HOW TO HANDLE FIREARMS; ALLOWING
11 THE GOVERNOR TO NEGOTIATE CONCEALED WEAPONS PERMIT
12 RECIPROCITY AGREEMENTS WITH OTHER STATES; AND AMENDING
13 SECTIONS 45-8-321 AND 45-8-324, MCA."
14

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

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

17 "45-8-321. Permit to carry concealed weapon. (1) A
18 county sheriff shall, within 60 days after the filing of an
19 application, issue a permit to carry a concealed weapon to
20 the applicant. The permit is valid for 4 years from the date
21 of issuance. An applicant must be a United States citizen 18
22 years of age or older who holds a valid Montana driver's
23 license or other form of identification issued by the state
24 that has a picture of the person identified. An applicant
25 must have been a resident of the state for at least 6

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

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

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

8 (c) has been convicted in any state or federal court in
9 any state of a crime punishable by more than 1 year of
10 incarceration or, regardless of the sentence that may be
11 imposed, a crime that includes as an element of the crime an
12 act, attempted act, or threat of intentional homicide,
13 violence, bodily or serious bodily harm, unlawful restraint,
14 sexual abuse, or sexual intercourse or contact without
15 consent;

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

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

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

1 treatment or education, or other conditions of release or is
2 otherwise under state supervision;

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

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

10 (2) The sheriff may deny an applicant a permit to carry
11 a concealed weapon if the sheriff has reasonable cause to
12 believe that the applicant is mentally ill, mentally
13 defective, or mentally disabled or otherwise may be a threat
14 to the peace and good order of the community to the extent
15 that the applicant should not be allowed to carry a
16 concealed weapon. At the time the application is denied, the
17 sheriff shall give the applicant a written statement of the
18 reasonable cause upon which the denial is based and of the
19 basis for and evidence supporting the reasonable cause
20 finding.

21 (3) An applicant for a permit under this section must,
22 as a condition to issuance of the permit, be required by the
23 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 (3)(a) through (3)(c).

17 (4) A photocopy of a certificate of completion of a
18 course described in subsection (3), an affidavit from the
19 entity or instructor that conducted the course attesting to
20 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 (3).

25 (5) If the sheriff and applicant both agree, the

requirement in subsection (3) of demonstrating familiarity with a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff, a physical test in which the applicant demonstrates the applicant's familiarity with a firearm."

Section 2. Section 45-8-324, MCA, is amended to read:

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

NEW SECTION. Section 3. Concealed weapons reciprocity agreements. The governor may negotiate concealed weapons permit reciprocity agreements with other states that have concealed weapons permit laws similar to those of Montana. The agreements may provide that a permit valid in the state that granted it is valid in a state with which the granting state has reciprocity. The agreements must provide that a permittee of the granting state is subject to all applicable concealed weapons laws when in another state that has reciprocity with the granting state. The governor may establish a council, composed of interested persons,

including law enforcement personnel and gun owners, to advise the governor on and pursue reciprocity issues and agreements.

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

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 582

INTRODUCED BY D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A WRITTEN STATEMENT OF A SHERIFF'S CAUSE FOR DENIAL OF A CONCEALED WEAPONS PERMIT BE GIVEN THE APPLICANT; CLARIFYING THE APPEAL OF THE DENIAL OF A PERMIT; ALLOWING THE FAMILIARITY WITH FIREARMS PREREQUISITE TO A PERMIT TO BE SATISFIED BY THE APPLICANT PHYSICALLY SHOWING THE SHERIFF THAT THE APPLICANT KNOWS HOW TO HANDLE FIREARMS; ~~ALLOWING THE---GOVERNOR---TO---NEGOTIATE---CONCEALED---WEAPONS---PERMIT RECIPROCITY---AGREEMENTS---WITH---OTHER---STATES;~~ AND AMENDING SECTIONS 45-8-321 AND 45-8-324, MCA."

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

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

"45-8-321. Permit to carry concealed weapon. (1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from the date of issuance. 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 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;

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

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

1 treatment or education, or other conditions of release or is
2 otherwise under state supervision;

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

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

10 (2) The sheriff may deny an applicant a permit to carry
11 a concealed weapon if the sheriff has reasonable cause to
12 believe that the applicant is mentally ill, mentally
13 defective, or mentally disabled or otherwise may be a threat
14 to the peace and good order of the community to the extent
15 that the applicant should not be allowed to carry a
16 concealed weapon. At the time the application is denied, the
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18 reasonable cause upon which the denial is based and of the
19 basis for and evidence supporting the reasonable cause
20 finding.

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25 approved or conducted by the department of fish, wildlife,

1 and parks or a similar agency of another state;

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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
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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
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20 completion of the course, or a copy of any other document
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23 the course creates a presumption that the applicant has
24 completed a course described in subsection (3).

25 (5) If the sheriff and applicant both agree, the

1 requirement in subsection (3) of demonstrating familiarity
 2 with a firearm may be satisfied by the applicant's passing,
 3 to the satisfaction of the sheriff, a physical test in which
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 5 a firearm."

6 **Section 2.** Section 45-8-324, MCA, is amended to read:

7 "45-8-324. **Appeal.** The denial or revocation of a permit
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 9 subject to appeal to the district court, which may consider
 10 and determine facts as well as law and which is not bound by
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 12 and from that court to the Montana supreme court. To the
 13 extent applicable, Title 25, chapter 33, governs the
 14 appeal."

15 ~~NEW-SECTION:--Section-3.--Concealed--weapons-reciprocity--~~
 16 ~~agreements.--The-governor--may--negotiate--concealed--weapons~~
 17 ~~permit--reciprocity--agreements--with-other-states-that-have~~
 18 ~~concealed-weapons-permit-laws-similar-to-those--of--Montana.~~
 19 ~~The--agreements-may-provide-that-a-permit-valid-in-the-state~~
 20 ~~that-granted-it-is-valid-in-a-state-with-which-the--granting~~
 21 ~~state--has--reciprocity.--The-agreements-must-provide-that-a~~
 22 ~~permittee-of-the-granting-state-is-subject-to-all-applicable~~
 23 ~~concealed-weapons--laws--when--in--another--state--that--has~~
 24 ~~reciprocity--with--the--granting--state.--The--governor--may~~
 25 ~~establish---a---council,--composed--of--interested--persons,~~

1 ~~including-law--enforcement--personnel--and--gun--owners,--to~~
 2 ~~advise--the--governor--on--and-pursue-reciprocity-issues-and~~
 3 ~~agreements.~~

4 ~~NEW-SECTION:--Section-4.--Codification-----instruction---~~
 5 ~~{Section-3}-is-intended-to-be-codified-as-an--integral--part~~
 6 ~~of--Title-45,chapter-8,part-3,--and-the-provisions-of-Title~~
 7 ~~45-apply-to-{section-3},~~

-End-

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~~NEW-SECTION.--Section-3.--Concealed-weapons--reciprocity--agreements.--The--governor--may--negotiate--concealed-weapons permit-reciprocity-agreements-with-other--states--that--have concealed--weapons--permit-laws-similar-to-those-of-Montana. The-agreements-may-provide-that-a-permit-valid-in-the--state that--granted-it-is-valid-in-a-state-with-which-the-granting state-has-reciprocity. The-agreements-must--provide--that--a permittee-of-the-granting-state-is-subject-to-all-applicable concealed--weapons--laws--when--in--another--state--that-has reciprocity--with--the--granting--state.--The--governor--may establish--a--council--composed--of--interested--persons,~~

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~~NEW-SECTION.--Section-4.--Codification-----instruction.--{Section--3}--is-intended-to-be-codified-as-an-integral-part of-Title-45, chapter-8, part-3, and the provisions of--Title 45-apply-to-{section-3}.~~

-End-