

House BILL NO. 232

INTRODUCED BY

*[Handwritten signature]*

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A WRITTEN STATEMENT OF A SHERIFF'S CAUSE FOR DENIAL OF A CONCEALED WEAPON PERMIT BE GIVEN TO 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 OR THE SHERIFF'S DESIGNEE THAT THE APPLICANT KNOWS HOW TO HANDLE FIREARMS; ALLOWING THE GOVERNOR TO NEGOTIATE CONCEALED WEAPON PERMIT RECIPROCIITY AGREEMENTS WITH OTHER STATES AND TO ESTABLISH AN ADVISORY COUNCIL; ADDRESSING THE FEDERAL BACKGROUND CHECK AND 5-DAY WAITING PERIOD REQUIREMENTS FOR A HANDGUN PURCHASE; AMENDING SECTIONS 45-8-321 AND 45-8-324, MCA; AND PROVIDING CONTINGENT TERMINATION DATES."

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 who is 18 years of age or older and 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

- 1     bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent;
- 2             (d) has been convicted under 45-8-327 or 45-8-328, unless ~~he~~ the applicant has been pardoned
- 3     or 5 years have elapsed since the date of the conviction;
- 4             (e) has a warrant of any state or the federal government out for ~~his~~ the applicant's arrest;
- 5             (f) has been adjudicated in a criminal or civil proceeding in ~~a court of~~ any state or ~~in a~~ federal court
- 6     to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other
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- 11    court; or
- 12             (h) was dishonorably discharged from the United States armed forces.
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12 **NEW SECTION. Section 6. Codification instruction.** [Sections 3 and 4] are intended to be codified  
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 8, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 232 (third reading copy -- blue), respectfully report that HB 232 be amended as follows and as so amended be concurred in.

Signed:   
Senator Bruce Zippen, Chair

That such amendments read:

1. Title, line 10.  
Following: "AND"  
Insert: "REQUIRING THE GOVERNOR"
2. Page 2, line 16.  
Following: "shall"  
Insert: ", unless the applicant is the subject of an active criminal investigation,"
3. Page 2, lines 17 and 18.  
Following: "based" on line 17  
Strike: remainder of line 17 through "finding" on line 18
4. Page 3, line 1.  
Following: "evidence"  
Insert: "that the sheriff may or may not accept"
5. Page 3, line 2.  
Strike: "firearms"  
Insert: "handguns"
6. Page 3, lines 21 through 24.  
Following: "Montana." on line 21  
Strike: remainder of line 21 through "state." on line 24
7. Page 3, line 25.  
Following: "governor"  
Strike: "may"  
Insert: "shall"

-END-

  
SA

Amd. Coord.  
Sec. of Senate

  
Senator Carrying Bill

HB 232  
SENATE

541438SC.SPV

## 1 HOUSE BILL NO. 232

2 INTRODUCED BY JORE, BRAINARD, KEENAN, BAER, EMERSON, CURTISS, MCGEE, REHBEIN, CLARK,  
3 MENAHAN, WELLS

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15 reasonable cause to believe that the applicant is mentally ill, mentally defective, or mentally disabled or  
16 otherwise may be a threat to the peace and good order of the community to the extent that the applicant  
17 should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall,  
18 UNLESS THE APPLICANT IS THE SUBJECT OF AN ACTIVE CRIMINAL INVESTIGATION, give the applicant  
19 a written statement of the reasonable cause upon which the denial is based and of the basis for and  
20 evidence supporting the reasonable cause finding.

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

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

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

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

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

3 (e) evidence THAT THE SHERIFF MAY OR MAY NOT ACCEPT that the applicant, during military  
4 service, was found to be qualified to operate firearms HANDGUNS.

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

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

14  
15 **Section 2.** Section 45-8-324, MCA, is amended to read:

16 "**45-8-324. Appeal.** The denial or revocation of a permit to carry a concealed weapon or refusal  
17 of a renewal is subject to appeal to the district court, which may consider and determine facts as well as  
18 law and which is not bound by any factual, legal, or other determination of the sheriff, and from that court  
19 to the Montana supreme court. To the extent applicable, Title 25, chapter 33, governs the appeal."

20  
21 **NEW SECTION. Section 3. Concealed weapon permit reciprocity agreements -- advisory council.**

22 (1) The governor may negotiate concealed weapon permit reciprocity agreements with other states that  
23 have concealed weapon permit laws similar to those of Montana. ~~The agreements may provide that a~~  
24 ~~permit valid in the state that granted it is valid in a state with which the granting state has reciprocity. The~~  
25 ~~agreements must provide that a permittee of the granting state is subject to all applicable concealed~~  
26 ~~weapon laws when in another state that has reciprocity with the granting state.~~

27 (2) The governor ~~may~~ **SHALL** establish a council, composed of interested persons, including law  
28 enforcement personnel and gun owners, to advise the governor on and pursue reciprocity issues and  
29 agreements.



