

1 *House* BILL NO. *429*
 2 INTRODUCED BY *Wells* *Lowell Brainard* ORR *Adams*
 3 *Shuler* *Carly Emerson* *Smiggin*

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE EXCEPTIONS TO THE OFFENSE OF CARRYING
 5 A CONCEALED WEAPON; PROVIDING THAT THE FAMILIARITY WITH FIREARMS REQUIRED TO BE
 6 SHOWN TO RECEIVE A CONCEALED WEAPON PERMIT IS SATISFIED BY EVIDENCE OF EXPERIENCE IN
 7 ORGANIZED SHOOTING COMPETITION; REQUIRING A PERSON ISSUED A PERMIT TO BE GIVEN A COPY
 8 OF THE LAWS RELATING TO DEFENSE OF PERSONS AND PROPERTY; REQUIRING THE GOVERNOR TO
 9 NEGOTIATE CONCEALED WEAPON RECIPROCITY AGREEMENTS WITH OTHER STATES; AMENDING
 10 SECTIONS 45-8-315, 45-8-317, 45-8-321, AND 45-8-329, MCA; AND REPEALING SECTION 45-8-328,
 11 MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
 15 **Section 1.** Section 45-8-315, MCA, is amended to read:

16 "45-8-315. **Definition.** "Concealed weapon" means any weapon mentioned in 45-8-316 through
 17 45-8-318 and 45-8-321 through ~~45-8-328~~ 45-8-327 that is wholly or partially covered by the clothing or
 18 wearing apparel of the person carrying or bearing the weapon, except that for purposes of 45-8-321
 19 through ~~45-8-328~~ 45-8-327, concealed weapon means a handgun or a knife with a blade 4 or more inches
 20 in length that is wholly or partially covered by the clothing or wearing apparel of the person carrying or
 21 bearing the weapon."

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 23 **Section 2.** Section 45-8-317, MCA, is amended to read:

24 "45-8-317. **Exceptions.** (1) Section 45-8-316 ~~and, except for a person referred to in subsection~~
 25 ~~(7), 45-8-328~~ does not apply to:

- 26 ~~(1)(a)~~ any a peace officer, elected official, judge, or justice of the state of Montana or of one of
- 27 its local government subdivisions;
- 28 (b) a judge or magistrate of a federal court located in Montana;
- 29 (c) an officer of a court located in Montana;
- 30 ~~(2)(d)~~ any an officer of the United States government authorized to carry a concealed weapon;

1 ~~(3)(e)~~ a person in actual service as a national guardsman;

2 ~~(4)(f)~~ a person summoned to the aid of ~~any of the persons~~ a person named in subsections (1)(a)
3 through ~~(3)(1)(e)~~;

4 ~~(5)(g)~~ a civil officer or ~~his~~ the officer's deputy engaged in the discharge of official business;

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

6 ~~(7)~~ ~~a person issued a permit under 45-8-321;~~

7 ~~(8)(i)~~ an agent of the department of justice or a criminal investigator in a county attorney's office;

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

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

13 (2) Section 45-8-316 does not apply to a person issued a permit under 45-8-321 who carries a
14 concealed weapon in:

15 (a) a building owned or leased by the federal or state government or a local government, except
16 a court, law enforcement facility, jail, prison, probation office, parole office, bank, credit union, or similar
17 institution; or

18 (b) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued
19 under Title 16 for the sale of alcoholic beverages for consumption on the premises, unless the person
20 consumes any amount of an alcoholic beverage in the room."

21

22 **Section 3.** Section 45-8-321, MCA, is amended to read:

23 **"45-8-321. Permit to carry concealed weapon.** (1) A county sheriff shall, within 60 days after the
24 filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for
25 4 years from the date of issuance. An applicant must be a United States citizen who is 18 years of age or
26 older and who holds a valid Montana driver's license or other form of identification issued by the state that
27 has a picture of the person identified. An applicant must have been a resident of the state for at least 6
28 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the
29 applicant:

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

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

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

7 (d) has been convicted under 45-8-316 or 45-8-327 or ~~45-8-328~~, unless the applicant has been
8 pardoned or 5 years have elapsed since the date of the conviction;

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

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

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

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

17 (2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has
18 reasonable cause to believe that the applicant is mentally ill, mentally defective, or mentally disabled or
19 otherwise may be a threat to the peace and good order of the community to the extent that the applicant
20 should not be allowed to carry a concealed weapon. At the time that an application is denied, the sheriff
21 shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written
22 statement of the reasonable cause upon which the denial is based.

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

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

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

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

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

5 (e) evidence that the sheriff may or may not accept that the applicant, during military service, was
6 found to be qualified to operate handguns; or

7 (f) presenting evidence of experience in organized shooting competition.

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

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

17 (6) The issued permit must be accompanied by a brochure that contains Title 45, chapter 3, part
18 1, and the annotations to that part that are published in the most recent edition of the Montana Code
19 Annotated (Annotations). The department of justice shall publish the brochure and provide sufficient copies
20 to each sheriff."

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22 **Section 4.** Section 45-8-329, MCA, is amended to read:

23 **"45-8-329. Concealed weapon permit reciprocity agreements -- advisory council.** (1) The governor
24 ~~may shall~~ negotiate concealed weapon permit reciprocity agreements with other states that have concealed
25 weapon permit laws similar to those of Montana. The governor shall begin negotiations by October 1,
26 1998.

27 (2) The governor 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."
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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0429, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act expanding the exceptions to the offense of carrying a concealed weapon; providing that the familiarity with firearms required to be shown to receive a concealed weapon permit is satisfied by evidence of experience in organized shooting competition; requiring a person issued a permit to be given a copy of the laws relating to defense of persons and property; requiring the Governor to negotiate concealed weapon reciprocity agreements with other states.

ASSUMPTIONS:

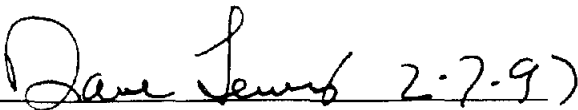
1. Section 3 of HB 429 requires the Department of Justice to publish a brochure and provide copies. If concealed weapon permit numbers maintain the same general growth and renewal patterns as currently seen, it is estimated that 10,000 copies of the brochure would be needed. Based on estimates from Publications and Graphics Bureau, Department of Administration, the cost of brochure design and printing for 10,000 copies is \$550. This would be a one-time cost in fiscal 1998.
2. Additional operating costs of supplies (\$50 - envelopes for mailing) and communication costs (postage and phone) of \$200 are estimated. The communication costs would be on-going for fiscal 1999.

FISCAL IMPACT:

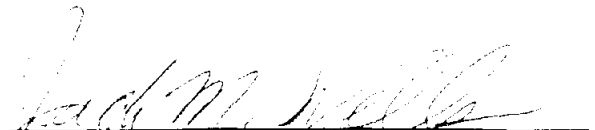
	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Operating expenses	800	200
<u>Funding:</u>		
General Fund (01)	800	200
<u>Net Impact:</u>		
General Fund (01)	(800)	(200)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The Department of Justice would have minimal ongoing operating and printing expenses.



 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning



 JACK WELLS, PRIMARY SPONSOR DATE

Fiscal Note for HB0429, as introduced

HB 429

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 2 INTRODUCED BY *Wells* *Love* *Brainard* *ORR* *Adams*
 3 *Shuler* *June* *Carly* *Emmons* *Simptson*

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 19 through ~~45-8-328~~ 45-8-327, concealed weapon means a handgun or a knife with a blade 4 or more inches
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24 "**45-8-317. Exceptions.** (1) Section 45-8-316 ~~and, except for a person referred to in subsection~~
 25 ~~(7), 45-8-328 do~~ does not apply to:

- 26 ~~(1)(a)~~ any a peace officer, elected official, judge, or justice of the state of Montana or of one of
- 27 its local government subdivisions;
- 28 (b) a judge or magistrate of a federal court located in Montana;
- 29 (c) an officer of a court located in Montana;
- 30 ~~(2)(d)~~ any an officer of the United States government authorized to carry a concealed weapon;

1 ~~(3)(e)~~ a person in actual service as a national guardsman;

2 ~~(4)(f)~~ a person summoned to the aid of ~~any of the persons~~ a person named in subsections (1)(a)
3 through ~~(3)(1)(e)~~;

4 ~~(5)(g)~~ a civil officer or ~~his~~ the officer's deputy engaged in the discharge of official business;

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

6 ~~(7) a person issued a permit under 45-8-321;~~

7 ~~(8)(i)~~ an agent of the department of justice or a criminal investigator in a county attorney's office;

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

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

13 (2) Section 45-8-316 does not apply to a person issued a permit under 45-8-321 who carries a
14 concealed weapon in:

15 (a) a building owned or leased by the federal or state government or a local government, except
16 a court, law enforcement facility, jail, prison, probation office, parole office, bank, credit union, or similar
17 institution; or

18 (b) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued
19 under Title 16 for the sale of alcoholic beverages for consumption on the premises, unless the person
20 consumes any amount of an alcoholic beverage in the room."

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26 older and who holds a valid Montana driver's license or other form of identification issued by the state that
27 has a picture of the person identified. An applicant must have been a resident of the state for at least 6
28 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the
29 applicant:

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

1 (b) has been charged and is awaiting judgment in any state or federal crime that is
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5 the crime an act, attempted act, or threat of intentional homicide, violence, bodily or serious bodily harm,
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20 should not be allowed to carry a concealed weapon. At the time that an application is denied, the sheriff
21 shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written
22 statement of the reasonable cause upon which the denial is based.

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

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26 of fish, wildlife, and parks or a similar agency of another state;

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28 of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law
29 enforcement agency, an institution of higher education, or an organization that uses instructors certified
30 by a national firearms association;

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2 public or private law enforcement personnel and conducted or approved by a law enforcement agency;

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3 EMERSON, SIMPKINS
4

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28 of its local government subdivisions;

29 ~~(b)(2)~~ a judge or magistrate of a federal court located in Montana;

30 ~~(c)(3)~~ an officer of a court located in Montana;

1 ~~(2)(d)(4)~~ any an officer of the United States government authorized to carry a concealed weapon;
 2 ~~(3)(e)(5)~~ a person in actual service as a national guardsman;
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5 ~~(5)(g)(7)~~ a civil officer or ~~his~~ the officer's deputy engaged in the discharge of official business;

6 ~~(6)(h)(8)~~ a probation and parole officer authorized to carry a firearm under 46-23-1002;

7 ~~(7) a person issued a permit under 45-8-321;~~

8 (9) A PERSON ISSUED A PERMIT UNDER 45-8-321, EXCEPT THAT THE PERSON MAY NOT
 9 CARRY A CONCEALED WEAPON IN A COURT, LAW ENFORCEMENT FACILITY, JAIL, PRISON,
 10 PROBATION OFFICE, OR PAROLE OFFICE OR IN A ROOM IN WHICH ALCOHOLIC BEVERAGES ARE SOLD
 11 FOR CONSUMPTION ON THE PREMISES IF THE PERSON CONSUMES ANY AMOUNT OF AN ALCOHOLIC
 12 BEVERAGE IN THE ROOM;

13 ~~(8)(j)(10)~~ an agent of the department of justice or a criminal investigator in a county attorney's
 14 office;

15 ~~(9)(i)(11)~~ a person who is outside the official boundaries of a city or town or the confines of a
 16 logging, lumbering, mining, or railroad camp or who is lawfully engaged in hunting, fishing, trapping,
 17 camping, hiking, backpacking, farming, ranching, or other outdoor activity in which weapons are often
 18 carried for recreation or protection; or

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18 entity or instructor that conducted the course creates a presumption that the applicant has completed a
19 course described in subsection (3).

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

24 (6) The issued permit must be accompanied by a brochure that contains Title 45, chapter 3, part
25 1, and the annotations to that part that are published in the most recent edition of the Montana Code
26 Annotated (Annotations). The department of justice shall publish the brochure and provide sufficient copies
27 to each sheriff."

28

29 **Section 4.** Section 45-8-329, MCA, is amended to read:

30 **"45-8-329. Concealed weapon permit reciprocity agreements -- advisory council.** (1) The governor

1 ~~may shall~~ ATTEMPT TO negotiate concealed weapon permit reciprocity agreements with other states that
2 have concealed weapon permit laws similar to those of Montana. The governor shall begin negotiations
3 by October 1, 1998.

4 (2) The governor shall establish a council, composed of interested persons, including law
5 enforcement personnel and gun owners, to advise the governor on and pursue reciprocity issues and
6 agreements."

7

8 NEW SECTION. **Section 5. Repealer.** Section 45-8-328, MCA, is repealed.

9

-END-