

HOUSE BILL NO. 371

INTRODUCED BY K. WHITE, A. DOANE, C. GLIMM, B. HARRIS, G. HERTZ, A. OLSZEWSKI,  
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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CONCEALED WEAPONS LAWS;  
REVISING THE OFFENSE OF CARRYING A CONCEALED WEAPON IN PROHIBITED PLACES; REVISING  
LAWS REGARDING LOCAL GOVERNMENT REGULATION OF FIREARMS; PROVIDING THAT A PERSON  
WITH A VALID PERMIT TO CARRY A CONCEALED WEAPON MAY CARRY THE WEAPON INTO A  
RESTAURANT WHERE ALCOHOL IS NOT THE CHIEF ITEM OF SALE; PROVIDING THAT IT IS A DEFENSE  
IF THE PERSON HAS A VALID PERMIT TO CARRY A CONCEALED WEAPON OR THE PERSON IS A PEACE  
OFFICER AND HAS THE POWER OF ARREST; AND AMENDING SECTIONS 45-8-328 AND 45-8-351, MCA."

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

**Section 1.** Section 45-8-328, MCA, is amended to read:

**"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except for legislative security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k), a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

(a) portions of a building used for state or local government offices and related areas in the building that have been restricted;

(b) a bank, credit union, savings and loan institution, or similar institution during the institution's normal business hours. It is not an offense under this section to carry a concealed weapon while:

(i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or

(ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person is inside the enclosure used for the institution's financial services or is using the institution's financial services.

(c) except for a restaurant where alcoholic beverages are not the chief item of sale, a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued under Title 16 for the sale of alcoholic beverages for consumption on the premises.

(2) ~~It is not a defense that the person had a valid permit to carry a concealed weapon.~~ A person

1 convicted of the offense of carrying a concealed weapon shall be imprisoned in the county jail for a term not to  
 2 exceed 6 months or fined an amount not to exceed \$500, or both.

3 (3) This section does not apply to a person who has a valid permit to carry a concealed weapon or who  
 4 is a peace officer and has the power of arrest."

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

7 **"45-8-351. Restriction on local government regulation of firearms.** (1) Except as provided in  
 8 ~~subsection (2)~~ subsections (2) and (3), a county, city, town, consolidated local government, or other local  
 9 government unit may not prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including  
 10 delay in purchase, sale, or other transfer), ownership, possession, transportation, use, or unconcealed carrying  
 11 of any weapon, including a rifle, shotgun, handgun, or concealed handgun.

12 (2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and  
 13 handguns. A county, city, town, consolidated local government, or other local government unit has power to  
 14 prevent and suppress:

15 (i) except for persons with a valid permit to carry a concealed weapon, the carrying of concealed or  
 16 unconcealed weapons to a public assembly, publicly owned building, park under its jurisdiction, or school; and

17 (ii) the possession of firearms by convicted felons, adjudicated mental incompetents, illegal aliens, and  
 18 minors.

19 (b) Nothing contained in this section allows any government to prohibit the legitimate display of firearms  
 20 at shows or other public occasions by collectors and others or to prohibit the legitimate transportation of firearms  
 21 through any jurisdiction, whether in airports or otherwise.

22 (c) A local ordinance enacted pursuant to this section may not prohibit a legislative security officer who  
 23 has been issued a concealed weapon permit from carrying a concealed weapon in the state capitol as provided  
 24 in 45-8-317.

25 (3) A county, city, town, consolidated local government, or other unit of local government has the power  
 26 to prohibit or regulate the carrying of concealed or unconcealed firearms in a secure area, including by persons  
 27 who have a valid permit to carry a concealed weapon.

28 (4) A person in charge of a correctional institution as defined in 45-2-101, law enforcement facility, court,  
 29 or mental health facility may establish policies for secure areas within those facilities and prohibit or regulate  
 30 firearms within secure areas subject to the following requirements:

1           (a) At least one written notice must be conspicuously displayed at each entrance to a secure area in  
2 which firearms are restricted.

3           (b) Provisions must be made to provide a secure storage area so that persons entering the secure area  
4 may store their firearms securely before entering the secure area.

5           (c) The facility is responsible for the firearms while the firearms are stored in the secure storage area.

6           (5) It is a defense to any prosecution under this section that the person acted in conformity with the  
7 facility's policies established pursuant to subsection (4).

8           (6) (a) For purposes of this section, "secure area" means an area beyond a locked door in an area not  
9 normally accessible by the public or an area beyond a security checkpoint where reasonable means, such as  
10 mechanical, electronic, x-ray, or similar devices, are used to detect firearms, ammunition, or dangerous weapons  
11 contained in the personal property of or on a person attempting to enter the area.

12           (b) The term does not include any area normally accessible to the public."

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