

HOUSE BILL NO. 357

INTRODUCED BY M. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FIREARMS LAWS TO SECURE THE RIGHT TO KEEP AND BEAR ARMS AND TO PREVENT A PATCHWORK OF RESTRICTIONS BY LOCAL GOVERNMENTS ACROSS THE STATE AND PROVIDING THAT LOCAL GOVERNMENTS MAY NOT REGULATE THE CARRYING OF CONCEALED WEAPONS; REVISING PROHIBITED PLACES FOR CONCEALED WEAPONS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 7-1-111, 45-8-328, AND 45-8-351, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Policy.** It is the policy of the state that the citizens of the state should be aware of, understand, and comply with any restrictions on the right to keep or bear arms that the people have reserved to themselves in Article II, section 12, of the Montana constitution, and that to minimize confusion the legislature withholds from local governments the power to restrict or regulate the possession of firearms.

Section 2. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

- (1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;
- (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;
- (3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;
- (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;
- (5) any power that establishes a rate or price otherwise determined by a state agency;

- 1 (6) any power that applies to or affects any determination of the department of environmental quality with
2 regard to any mining plan, permit, or contract;
- 3 (7) any power that applies to or affects any determination by the department of environmental quality
4 with regard to a certificate of compliance;
- 5 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense
6 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'
7 imprisonment, or both, except as specifically authorized by statute;
- 8 (9) any power that applies to or affects the right to keep or bear arms, ~~except that a local government~~
9 ~~has the power to regulate the carrying of concealed weapons;~~
- 10 (10) any power that applies to or affects a public employee's pension or retirement rights as established
11 by state law, except that a local government may establish additional pension or retirement systems;
- 12 (11) any power that applies to or affects the standards of professional or occupational competence
13 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;
- 14 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
15 75, chapter 7, part 1, or Title 87;
- 16 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended
17 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,
18 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords
19 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local
20 government's jurisdiction.
- 21 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;
- 22 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
23 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may
24 enter into a cooperative agreement with the department of agriculture concerning the use and application of
25 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
26 government from adopting or implementing zoning regulations or fire codes governing the physical location or
27 siting of fertilizer manufacturing, storage, and sales facilities.
- 28 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing,
29 sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable seeds
30 as defined in 80-5-120. This subsection is not intended to prevent or restrict a local government from adopting

1 or implementing zoning regulations or building codes governing the physical location or siting of agricultural or
2 vegetable seed production, processing, storage, sales, marketing, transportation, or distribution facilities.

3 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
4 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
5 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
6 communications commission of the United States;

7 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna
8 at heights and dimensions sufficient to accommodate amateur radio service communications by a person who
9 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or
10 higher class, issued by the federal communications commission of the United States;

11 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load,
12 object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway
13 that is under the jurisdiction of an entity other than the local government unit;

14 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in relation
15 to a wildfire."
16

17 **Section 3.** Section 45-8-328, MCA, is amended to read:

18 **"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except for legislative
19 security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k), a
20 person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or
21 knowingly carries a concealed weapon in:

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

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

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

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

29 (c) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued
30 under Title 16 for the sale of alcoholic beverages for consumption on the premises.

1 (2) It is ~~not~~ a defense that the person ~~had~~ has a valid permit to carry a concealed weapon. A person
2 convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an
3 amount not to exceed \$500, or both."

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5 **Section 4.** Section 45-8-351, MCA, is amended to read:

6 **"45-8-351. Restriction on local government regulation of firearms.** (1) Except as provided in
7 subsection (2), a county, city, town, consolidated local government, or other local government unit may not
8 prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in purchase, sale,
9 or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon, including
10 a rifle, shotgun, handgun, or concealed handgun.

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

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

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

22

23 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
24 integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [section 1].

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26 NEW SECTION. **Section 6. Effective date.** If approved by the electorate, [this act] is effective January
27 1, 2021.

28

29 NEW SECTION. **Section 7. Submission to electorate.** [This act] shall be submitted to the qualified
30 electors of Montana at the general election to be held in November 2020 by printing on the ballot the full title of

1 [this act] and the following:

2 YES on Legislative Referendum ___.

3 NO on Legislative Referendum ___.

4 - END -