

1 SENATE BILL NO. 158

2 INTRODUCED BY S. HINEBAUCH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MEMBERS OF THE MONTANA LEGISLATURE
5 TO CARRY A LAWFULLY POSSESSED AND CONCEALED HANDGUN ON STATE PROPERTY OPEN TO
6 THE PUBLIC; AMENDING SECTIONS 45-8-317, 45-8-328, AND 45-8-351, MCA; AND PROVIDING AN
7 IMMEDIATE EFFECTIVE DATE."

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

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11 NEW SECTION. Section 1. Legislator possession of handguns on state property. (1) Except as
12 provided in subsection (2), a senator or representative currently serving as a member of the state legislature
13 may carry a lawfully possessed and concealed handgun on any portion of state property open to the public.

14 (2) This section does not apply to a state prison as defined in 53-30-101.

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

17 **"45-8-317. Exceptions.** (1) Section 45-8-316 does not apply to:

18 (a) any peace officer of the state of Montana or of another state who has the power to make arrests;

19 (b) any officer of the United States government authorized to carry a concealed weapon;

20 (c) a person in actual service as a member of the national guard;

21 (d) a person summoned to the aid of any of the persons named in subsections (1)(a) through (1)(c);

22 (e) a civil officer or the officer's deputy engaged in the discharge of official business;

23 (f) a probation and parole officer authorized to carry a firearm under 46-23-1002;

24 (g) a person issued a permit under 45-8-321 or a person with a permit recognized under 45-8-329;

25 (h) an agent of the department of justice or a criminal investigator in a county attorney's office;

26 (i) a person who is outside the official boundaries of a city or town or the confines of a logging,

27 lumbering, mining, or railroad camp or who is lawfully engaged in hunting, fishing, trapping, camping, hiking,

28 backpacking, farming, ranching, or other outdoor activity in which weapons are often carried for recreation or

1 protection;

2 (j) the carrying of arms on one's own premises or at one's home or place of business; or

3 (k) the carrying of a concealed weapon in the state capitol by a legislative security officer who has
4 been issued a permit under 45-8-321 or with a permit recognized under 45-8-329; or

5 (l) a senator or representative of the state legislature carrying a handgun as provided in [section 1].

6 (2) With regard to a person issued a permit under 45-8-321, the provisions of 45-8-328 do not apply
7 to this section."

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

10 **"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except for legislative
11 security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k), a
12 person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or
13 knowingly carries a concealed weapon in:

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

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

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

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

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

23 (2) The provisions of subsection (1)(a) do not apply to a senator or representative currently serving as
24 a member of the state legislature who carries a handgun in compliance with [section 1].

25 ~~(2)(3)~~ It is not a defense that the person had a valid permit to carry a concealed weapon. A person
26 convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an
27 amount not to exceed \$500, or both."

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

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

7 (2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and
8 handguns. A county, city, town, consolidated local government, or other local government unit has power to
9 prevent and suppress the carrying of unpermitted concealed weapons or the carrying of unconcealed weapons
10 to a publicly owned and occupied building under its jurisdiction.

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

14 (c) A local ordinance enacted pursuant to this section may not prohibit:

15 (i) a senator or representative of the state legislature from carrying a handgun as provided in [section
16 1]; or

17 (ii) a legislative security officer who has been issued a concealed weapon permit from carrying a
18 concealed weapon in the state capitol as provided in 45-8-317."

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20 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
21 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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23 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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