

1 HOUSE BILL NO. 442

2 INTRODUCED BY M. PHILLIPS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DENIAL AND REVOCATION OF A PERMIT TO CARRY
5 A CONCEALED WEAPON IF AN INDIVIDUAL IS CONVICTED OF DISORDERLY CONDUCT AND CRIMINAL
6 TRESPASS TO PROPERTY OR FELONY DUI; AMENDING SECTION 45-8-321, MCA; AND PROVIDING AN
7 APPLICABILITY DATE."

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

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11 **Section 1.** Section 45-8-321, MCA, is amended to read:
12 **"45-8-321. Permit to carry concealed weapon.** (1) A county sheriff shall, within 60 days after the filing
13 of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from
14 the date of issuance. An applicant must be a United States citizen who is 18 years of age or older and who holds
15 a valid Montana driver's license or other form of identification issued by the state that has a picture of the person
16 identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in
17 subsection (2), this privilege may not be denied an applicant unless the applicant:
18 (a) is ineligible under Montana or federal law to own, possess, or receive a firearm;
19 (b) has been charged and is awaiting judgment in any state or federal crime that is punishable
20 by incarceration for 1 year or more;
21 (c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:
22 (i) a crime punishable by more than 1 year of incarceration; or
23 (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an
24 act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or
25 sexual intercourse or contact without consent;
26 (d) has been convicted of disorderly conduct under 45-8-101 and criminal trespass to property under
27 45-6-203 or is convicted of operating a vehicle in violation of 61-8-401 or 61-8-406 and is punishable under
28 61-8-731;
29 ~~(d)~~(e) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5
30 years have elapsed since the date of the conviction;

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

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

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

8 ~~(h)~~(i) was dishonorably discharged from the United States armed forces.

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

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

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

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

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

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

27 (e) evidence that the applicant, during military service, was found to be qualified to operate firearms,
28 including handguns.

29 (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from
30 the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other

1 document that attests to completion of the course and can be verified through contact with the entity or instructor
2 that conducted the course creates a presumption that the applicant has completed a course described in
3 subsection (3).

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

8 (6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony and
9 whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to
10 issuance of a concealed weapons permit if otherwise eligible."

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12 **NEW SECTION. Section 2. Applicability.** [This act] applies to persons who possess concealed
13 weapons permits and are convicted of violations of 45-6-203 or first, second, or third violations of 61-8-401 or
14 61-8-406, occurring after October 1, 2011.

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