

## HOUSE BILL NO. 280

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

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

NEW SECTION. **Section 1. Legislator possession of handguns on state property.** A (1) EXCEPT  
AS PROVIDED IN SUBSECTION (2), A senator or representative currently serving as a member of the Montana  
 legislature may carry a lawfully possessed AND CONCEALED handgun, ~~either openly or concealed,~~ on any portion  
 of state property open to the public.

(2) THIS SECTION DOES NOT APPLY TO A STATE PRISON AS DEFINED IN 53-30-101.

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

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

- (a) any peace officer of the state of Montana or of another state who has the power to make arrests;
- (b) any officer of the United States government authorized to carry a concealed weapon;
- (c) a person in actual service as a member of the national guard;
- (d) a person summoned to the aid of any of the persons named in subsections (1)(a) through (1)(c);
- (e) a civil officer or the officer's deputy engaged in the discharge of official business;
- (f) a probation and parole officer authorized to carry a firearm under 46-23-1002;
- (g) a person issued a permit under 45-8-321 or a person with a permit recognized under 45-8-329;
- (h) an agent of the department of justice or a criminal investigator in a county attorney's office;

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

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

5 (k) the carrying of a concealed weapon in the state capitol by a legislative security officer, INCLUDING A  
 6 CURRENTLY APPOINTED SENATE SERGEANT-AT-ARMS, who has been issued a permit under 45-8-321 or with a permit  
 7 recognized under 45-8-329; or

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

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

11

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

13 **"45-8-328. Carrying concealed weapon in prohibited place -- penalty.** (1) Except as provided in  
 14 subsection (2), and except for legislative security officers AND A CURRENTLY APPOINTED SENATE SERGEANT-AT-ARMS  
 15 THAT ARE authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k), a person  
 16 commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly  
 17 carries a concealed weapon in:

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

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

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

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

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

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

29 ~~(2)(3)~~ It is not a defense that the person had a valid permit to carry a concealed weapon. A person  
 30 convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an

1 amount not to exceed \$500, or both."

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

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

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

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

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

18 (i) a senator or representative of the Montana legislature from carrying a handgun as provided in [section  
19 1]; or

20 (ii) a legislative security officer, INCLUDING A CURRENTLY APPOINTED SENATE SERGEANT-AT-ARMS, who has  
21 been issued a concealed weapon permit from carrying a concealed weapon in the state capitol as provided in  
22 45-8-317."

23

24 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an  
25 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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27 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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