

State Laws and Published Ordinances – Montana

Current through the 2019 regular session 66th Legislature.

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Title 40 – Family Law
Chapter 15 – Partner and Family Member Assault, Sexual Assault, and Stalking – Safety and Protection of Victims
Part 2 – Order of Protection

Section 40-15-201. Temporary order of protection.

(2) Upon a review of the petition and a finding that the petitioner is in danger of harm if the court does not act immediately, the court shall issue a temporary order of protection that grants the petitioner appropriate relief. The temporary order of protection may include any or all of the following orders:

- (f) prohibiting the respondent from possessing or using the firearm used in the assault;

Title 45 – Crimes
Chapter 5 – Offenses Against the Person
Part 2 – Assault and Related Offenses

Section 45-5-206. Partner or family member assault — penalty.

(7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce 45-8-323 if a firearm was used in the assault.

Chapter 6 – Offenses Against Property
Part 3 – Theft and Related Offenses

Section 45-6-326. Obscuring identity of machine.

(1) A person commits the offense of obscuring the identity of a machine if the person:

- (a) removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any machine, vehicle, electrical device, or firearm with the purpose to conceal, misrepresent, or transfer any machine, vehicle, electrical device, or firearm; or
- (b) possesses with the purpose to conceal, misrepresent, or transfer any machine, vehicle, device, or firearm knowing that the serial number or other identification number or mark has been removed or otherwise obscured.

(2) A person convicted of obscuring the identity of a machine shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The fact of possession or transfer of any machine, vehicle, electrical device, or firearm described in subsection (1) creates a presumption that the person knew the serial number or other identification number or mark had been removed or otherwise obscured.

Chapter 8 – Offenses Against Public Order
Part 3 – Weapons

Section 45-8-301. Uniformity of interpretation.

Sections 45-8-302 through 45-8-305 and 45-8-307 must be interpreted and construed to effectuate their general purpose to make uniform the law of those states that enact them.

Section 45-8-302. Definitions.

In 45-8-303 through 45-8-305 and 45-8-307, the following definitions apply:

- (1) "**Crime of violence**" means any of the following crimes or an attempt to commit any of the crimes: any forcible felony, robbery, burglary, and criminal trespass.
- (2) "**Machine gun**" means a firearm designed to discharge more than one shot by a single function of the trigger.
- (3) "**Person**" includes a firm, partnership, association, or corporation.

Section 45-8-303. Possession or use of machine gun in connection with a crime.

Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than 20 years.

Section 45-8-304. Possession or use of machine gun for offensive purpose.

Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than 10 years.

Section 45-8-305. Presumption of offensive or aggressive purpose.

Possession or use of a machine gun must be presumed to be for an offensive or aggressive purpose when the machine gun is in the possession of or used by a person who has been convicted of a crime of violence in any court of record, state or federal, in the United States of America or its territories or insular possessions.

Section 45-8-307. Exceptions.

Sections 45-8-301 through 45-8-305 and this section do not prohibit or interfere with:

- (1) the manufacture of machine guns for and sale of machine guns to the military forces or the peace officers of the United States or of any political subdivision of the United States or transportation required for that purpose;
- (2) the possession of a machine gun for a scientific purpose or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;
- (3) the possession of a machine gun for a purpose manifestly not aggressive or offensive.

Section 45-8-313. Unlawful possession of firearm by convicted person.

(1) A person commits the offense of unlawful possession of a firearm by a convicted person if the person purposely or knowingly purchases or possesses a firearm after the person has been convicted of:

- (a) a felony for which the person received an additional sentence under 46-18-221; or
- (b) an offense under the law of another state or of the United States that is equivalent to an offense that when committed in Montana is subject to an additional sentence under 46-18-221.

(3) A person who has been issued a permit under 45-8-314 may not be convicted of a violation of this section.

Section 45-8-314. Lifetime firearms supervision of certain convicted persons.

(1) For the purposes of rehabilitation and public protection, a person convicted of an offense referred to in 45-8-313 shall, as part of the sentence imposed, be sentenced to life supervision by the state for the purpose of restricting the person's right to purchase and possess firearms. Active supervision by a probation or parole officer is not required but may be imposed by the court. "**Supervision**" means that the person may not violate 45-8-313 and must comply with other state and federal law restrictions on the purchase and possession of firearms.

(2)

(a) A person subject to subsection (1) may apply to the district court for the county in which the person resides for a permit to purchase and possess 1 or more firearms. The person shall show good cause for the possession of each firearm sought to be purchased and possessed. The grant or denial of the application does not prevent the person from making another application, except that if an application is denied, another application may not be made for the next 12 months.

(b) The application must contain the following information:

- (i) the person's full name and any past or present aliases;
- (ii) the person's date and place of birth;
- (iii) the person's address;
- (iv) the person's occupation;
- (v) the make and model of each firearm sought to be purchased and possessed;
- (vi) the date and place of each conviction of an offense referred to in 45-8-313, the name of the offense, the state and county in which the offense occurred, the sentence imposed, the place or places of incarceration, and the date of discharge from supervision for the last offense;
- (vii) the name and business address of the person's last probation or parole officer; and
- (viii) any other information considered necessary by the court.

(c) The person shall, at the time of filing the application with the court, mail a copy to the county attorney and county sheriff.

(d) The county attorney or county sheriff may file a written objection with the court. If no objection is filed, the court may grant the permit if it finds that the person has shown good cause to purchase and possess the firearm or firearms listed in the application. If an objection is filed, a hearing must be held within 60 days after the filing of the objection. If the court first finds that the person has shown good cause to purchase and possess the firearm or firearms listed in the application and that, but for the objection, the court would have granted a permit, the court shall decide whether the objection is valid and overrides the good cause showing and requires denial of the permit.

Section 45-8-321. Permit to carry concealed weapon.

(1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from the date of issuance. An applicant must be a United States citizen or permanent lawful resident who is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the applicant:

- (a)** is ineligible under Montana or federal law to own, possess, or receive a firearm;
- (b)** has been charged and is awaiting judgment in any state or federal crime that is punishable by incarceration for 1 year or more;
- (c)** subject to the provisions of subsection (6), has been convicted in any state or federal court of:
 - (i)** a crime punishable by more than 1 year of incarceration; or
 - (ii)** regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent;
- (d)** has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years have elapsed since the date of the conviction;
- (e)** has a warrant of any state or the federal government out for the applicant's arrest;
- (f)** has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is otherwise under state supervision;
- (g)** has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill, mentally disordered, or mentally disabled and is still subject to a disposition order of that court; or
- (h)** was dishonorably discharged from the United States armed forces.

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

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

- (a)** completion of a hunter education or safety course approved or conducted by the department of fish, wildlife, and parks or a similar agency of another state;
- (b)** completion of a firearms safety or training course approved or conducted by the department of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement agency, an institution of higher education, or an organization that uses instructors certified by a national firearms association;
- (c)** completion of a law enforcement firearms safety or training course offered to or required of public or private law enforcement personnel and conducted or approved by a law enforcement agency;
- (d)** possession of a license from another state to carry a firearm, concealed or otherwise, that is granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or
- (e)** evidence that the applicant, during military service, was found to be qualified to operate firearms, including handguns.

(4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other document that attests to completion of the course and can be verified through contact with the entity or instructor that conducted the course creates a presumption that the applicant has completed a course described in subsection (3).

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

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

Section 45-8-322. Application, renewal, permit, and fees.

(1) The application form must be readily available at the sheriff's office and must read as follows:

(2) The application must be in triplicate. The applicant must be given the original at the time the completed application is filed with the sheriff, the sheriff shall keep a copy for at least 4 years, and a copy must, within 7 days of the sheriff's receipt of the application, be mailed to the chief of police if the applicant resides in a city or town with a police force.

(3) The fee for issuance of a permit is \$50. The permit must be renewed for additional 4-year periods upon payment of a \$25 fee for each renewal and upon request for renewal made within 90 days before expiration of the permit. The permit and each renewal must be in triplicate, in a form prescribed by the department of justice, and must, at a minimum, include the name, address, physical description, signature, driver's license number, state identification card number, or tribal identification card number, and a picture of the permittee. A person in the United States armed forces satisfies the requirement of submitting a picture if the person submits pictures of the front of the person's military identification card and the person's Montana driver's license. The permit must state that federal and state laws on possession of firearms and other weapons differ and that a person who violates the federal law may be prosecuted in federal court and the Montana permit will not be a defense. The permittee must be given the original, and the sheriff shall keep a copy and send a copy to the department of justice, which shall keep a central repository record of all permits. Replacement of a lost permit must be treated as a renewal under this subsection.

(4) The sheriff shall conduct a background check of an applicant to determine whether the applicant is eligible for a permit under 45-8-321, may require an applicant to submit the applicant's fingerprints, and may charge the applicant \$5 for fingerprinting. A renewal does not require repeat fingerprinting.

(5) Permit, background, and fingerprinting fees may be retained by the sheriff and used to implement 45-8-321 through 45-8-324.

(6) A state or local government law enforcement agency or other agency or any of its officers or employees may not request a permittee to voluntarily submit information in addition to that required on an application and permit.

(7) All of the information on the application is confidential, and the sheriff shall treat the confidential information on the application as confidential criminal justice information pursuant to Title 44, chapter 5.

Section 45-8-323. Denial of renewal – revocation of permit.

A permit to carry a concealed weapon may be revoked or its renewal denied by the sheriff of the county in which the permittee resides if circumstances arise that would require the sheriff to refuse to grant the permittee an original license. A decision to deny an applicant a renewal must be made within 60 days after the filing of an application.

Section 45-8-324. Appeal.

The denial or revocation of a permit to carry a concealed weapon or refusal of a renewal is subject to appeal to the district court, which may consider and determine facts as well as law and which is not bound by any factual, legal, or other determination of the sheriff, and from that court to the Montana Supreme Court. To the extent applicable, Title 25, chapter 33, governs the appeal.

Section 45-8-330. (Temporary) Exemption of concealed weapon permittee from federal handgun purchase background check and waiting period.

A person possessing a concealed weapon permit is:

(1) considered to have a permit constituting completion of the background check required by 18 U.S.C. 921 through 925A;

Section 45-8-336. Possession of silencer.

(1) A person commits the offense of possession of a silencer if the person possesses, manufactures, transports, buys, or sells a silencer and has the purpose to use it to commit an offense or knows that another person has such a purpose.

Section 45-8-337. Possession of unregistered silencer or of bomb or similar device prima facie evidence of unlawful purpose.

Possession of a silencer that is not registered under federal law or of a bomb or similar device charged or filled with one or more explosives is prima facie evidence of a purpose to use the same to commit an offense.

Section 45-8-340. Sawed-off firearm – penalty.

(1) A person commits the offense of possession of a sawed-off firearm if the person knowingly possesses a rifle or shotgun that when originally manufactured had a barrel length of:

- (a) 16 inches or more and an overall length of 26 inches or more in the case of a rifle; or
- (b) 18 inches or more and an overall length of 26 inches or more in the case of a shotgun; and
- (c) the firearm has been modified in a manner so that the barrel length, overall length, or both, are less than specified in subsection (1)(a) or (1)(b).

(2) The barrel length is the distance from the muzzle to the rear-most point of the chamber.

(3) This section does not apply to firearms possessed:

- (a) by a peace officer of this state or one of its political subdivisions;
- (b) by an officer of the United States government authorized to carry weapons;
- (c) by a person in actual service as a member of the national guard;
- (d) by a person called to the aid of one of the persons named in subsections (3)(a) through (3)(c);
- (e) for educational or scientific purposes in which the firearms are incapable of being fired;
- (f) by a person who has a valid federal tax stamp for the firearm, issued by the bureau of alcohol, tobacco, firearms and explosives; or
- (g) by a bona fide collector of firearms if the firearm is a muzzleloading, sawed-off firearm manufactured before 1900.

Section 45-8-351. Restriction on local government regulation of firearms. [Effective until January 1, 2021]

(1) Except as provided in subsection (2), a county, city, town, consolidated local government, or other local government unit may not prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in purchase, sale, or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon, including a rifle, shotgun, handgun, or concealed handgun.

(2)

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

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

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

Section 45-8-361. Possession or allowing possession of weapon in school building — exceptions — penalties — seizure and forfeiture or return authorized — definitions.

(1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3)

(a) Subsection (1) does not apply to law enforcement personnel.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

(5) As used in this section:

(a) **“school building”** means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in 20-5-109.

(b) **“weapon”** means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense.

**Title 9 – Public Peace, Safety and Morals
Chapter 9.20 – Firearms**

Section 9.20.020. Carrying concealed or unconcealed weapons in certain public places prohibited.

It shall be illegal for any person to carry any concealed or unconcealed weapon to a public assembly, publicly owned building, any park within the city limits, or any school within the city limits.

Section 9.20.030. Possession of firearms by certain individuals prohibited.

It shall be illegal for any convicted felon, any person adjudicated mentally incompetent, any illegal alien and any minor to have in his or her possession any firearms.

**Butte-Silver Bow County Code of Ordinances
Current through Ordinance 19-15, enacted January 22, 2020. (Supplement 28)**

**Title 9 – Public Peace, Safety and Morals
Chapter 9.28 – Carrying of Weapons or Explosive Devices on Certain Public**

Section 9.28.030. Definitions.

The following terms shall have the following meanings in this chapter:

A. "Authorized person" means those persons authorized to carry weapons in prohibited places pursuant to Section 45-8-317, MCA, (excluding subsection 7) and Section 45-8-328, MCA, and includes the court bailiff in the courthouse and further includes a private security guard licensed pursuant to Section 37-60-301, MCA, who has been retained by the city-county (or by a tenant/lessee of the city-county) or by a school district (or by a tenant/lessee of a school district) to provide private security services for the respective governmental entity (or for a tenant/lessee of the respective governmental entity).

B. "City-county" means the local government of the city and county of Butte-Silver Bow, Montana, and includes all of that area within its jurisdictional boundaries.

F. "School" means in addition to all school buildings, school playgrounds, parking lots, campus areas, park areas and stadiums. For the purposes of this chapter, "school" does not include school trust lands nor does "school" include home school or private school.

G. "Weapon" means any handgun, rifle, shotgun, machine gun, air rifle, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife with a blade four inches long or longer, razor, not including a safety razor, or other deadly weapon. For the purposes of this chapter, "weapons" does not include knives which are kept, stored or used for the purposes of preparing and serving food, in any school cafeteria, in the community center building, the civic center, any Butte-Silver Bow fire hall or the maintenance center nor does "weapons" include sporting or athletic equipment or theatrical or educational equipment or props which are being used as part of a sporting or athletic event or a theatrical or educational performance or event.

Section 9.28.040. Carrying weapons or explosive devices on public property prohibited, Exception for authorized persons, Exception for city-county shooting range.

It is unlawful for any person, other than an authorized person, or those authorized to use a city-county shooting range as described in Section 9.28.050, to carry concealed or unconcealed weapons or explosive devices to any publicly owned building, public park or school within the city-county.

Section 9.28.050 Exceptions.

Nothing contained herein shall prohibit persons authorized to use a city-county shooting range from using firearms at such range or transporting firearms to, through and from such range nor shall this chapter prohibit persons from possessing, using or transporting unloaded firearms to, through or from any school or other publicly owned building when such unloaded firearms are being used for instructional purposes as part of hunter safety or similar firearms safety training classes nor shall this chapter prohibit the legitimate display of firearms at shows or other public occasions by collectors and others nor shall this chapter prohibit the legitimate transportation of firearms through the city-county, including the Bert Mooney Airport.

**Conrad Code of Ordinances
Current through Ordinance 413, passed February 16, 2016.**

**Title 10 – Zoning
10-7 – C-1 General Commercial**

Section 10-7-7. Conditional uses.

A. Ammunition manufacturing

C. Firearms sale, resale and inventory

Forsyth Code of Ordinances

Current through Ordinance 2018-05, passed November 18, 2018.

**Title 7 – Police Regulations
Chapter 4 – Firearms and Weapons**

Section 7-4-4. Carrying weapons in prohibited places.

A. Unlawful; Places Designated: A person commits the offense of carrying a concealed or unconcealed weapon in a prohibited place if he purposely or knowingly carries a concealed or unconcealed weapon in a:

3. School.

B. Exceptions:

1. Nothing contained herein shall allow the City to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others, nor shall anything contained herein prohibit the legitimate transportation of firearms through the City.

Hamilton Code of Ordinances

Current through Ordinance 387, passed June 16, 2015. (Supplement 1)

**Title 9 – Public Peace and Welfare
Chapter 9.32 – Weapons**

Section 9.32.010. Firearms.

A. The word "**firearms**" shall include and mean any instrument or device which uses the explosive action of gun powder, compressed air, or the power of springs, which shall include airguns, BB guns, and all manner of what is commonly known as firearms.

Section 9.32.020. Firearms prohibited in certain public buildings, Exceptions.

A. No person shall wear, bear, or otherwise carry into, any public building in the city limits, any firearms, whether concealed or unconcealed, or any explosive device.

B. This section shall not apply to:

1. Peace officers of the state or the United States government;
2. Persons participating or displaying guns and weapons at shows authorized by the city or school;
3. Persons participating in hunter or gun safety courses sanctioned by the Fish and Game Department and/or authorized by the city or school;
4. Persons specifically authorized by the city or school to carry firearms or demonstrate or use explosive devices on its premises.

Helena Code of Ordinances

Current through Ordinance 3264, passed August 26, 2019.

**Title 5 – Police Regulations
Chapter 1 – General Offenses**

Section 5-1-3. Possession of firearms prohibited; exceptions.

A. Prohibition: It shall be unlawful, and a misdemeanor, for any person, other than a peace officer in the discharge of his duties, or a citizen in the protection of his life or that of his family or his property, or any person authorized by law:

2. To possess any firearm, air gun or pistol at a public assembly, in a City park, school, or in any publicly owned building, with the specific exceptions of:

- a. Legitimate displays of unloaded firearms at shows or other public occasions by collectors and others; and
- b. Persons participating in hunter or gun safety classes sanctioned by the Department of Fish, Wildlife and Parks and authorized by the City or school.

B. Exceptions: Nothing in this chapter shall apply to a person in actual service in the military of the United States or the State, as a law enforcement officer or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of his official duties, nor carrying of arms in one's premises or place of business, or where a concealed weapons permit has been granted to bear, concealed or otherwise, a pistol or revolver during the time of such permission.

Livingston Municipal Code

Current through Ordinance 2071, enacted August 7 2018. (Supplement 13)

**Title 10 – Miscellaneous Offenses
Article IV – Weapons and Other Offenses**

Section 10.19.1. Firearms, unlawful purchase or possession.

No person who has been adjudicated as mentally incompetent, or who is an illegal alien may purchase or possess a firearm, and a minor may not purchase a firearm.

West Yellowstone Code of Ordinances

Current through Ordinance 271, passed June 2, 2020.

**Title 9 – Public Peace, Morals and Welfare
Chapter 9.20 – Weapons**

Section 9.20.030. Weapons in public places prohibited.

- A.** No person shall purposely or knowingly carry or transport any weapon, including but not limited to pistols, rifles, shot guns, slingshots, daggers, razor knives, or any knife having a blade four inches long or longer, into any public assembly, publicly owned or leased building, court, or school in the town.
- B.** Nothing contained in this section shall prohibit the legitimate display of firearms or other weapons at shows or other public occasions by collectors and others, nor shall anything contained in this section prohibit the carrying of weapons into public places by properly appointed or elected police, highway patrol or sheriff's officers, or other duly authorized persons.
- D.** For purposes of this section, a person acts purposely if it is the person's conscious object to engage in that conduct, and a person acts knowingly when the person is aware of the person's own conduct.