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2015 MT H 533

Author: Wagoner
Version: Enrolled
Version Date: 04/15/2015

2015 Montana Legislature

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HOUSE BILL NO. 533

INTRODUCED BY K. WAGONER

AN ACT REVISING CONCEALED WEAPONS LAWS; REVISING THE DEFINITION OF "CONCEALED WEAPON"; PROVIDING THAT A PERSON COMMITS THE OFFENSE OF CARRYING A CONCEALED WEAPON IF THE PERSON ALSO ATTEMPTS TO COMMIT A CRIMINAL OFFENSE OR CARRIES A CONCEALED WEAPON DURING THE COMMISSION OF A CRIMINAL OFFENSE; PROVIDING AN EXCEPTION TO THE OFFENSE OF CARRYING A CONCEALED WEAPON IN A PROHIBITED PLACE FOR ON-DUTY OR OFF-DUTY LAW ENFORCEMENT OFFICERS, SECURITY GUARDS, AND EMPLOYEES WHO POSSESS A CONCEALED WEAPONS PERMIT AND CARRY THE CONCEALED WEAPON IN A BUSINESS OR BUILDING WITH THE WRITTEN CONSENT OF THE OWNER OR MANAGER IN CERTAIN CASES; PROVIDING THAT A RESTAURANT OR A RESTAURANT-PORION OF BUSINESS IS NOT A PROHIBITED PLACE FOR PURPOSES OF CARRYING A CONCEALED WEAPON IN CERTAIN CASES; AND AMENDING SECTIONS 45-8-315, 45-8-316, AND 45-8-328, MCA.

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

Section 1. Section 45-8-315, MCA, is amended to read:

"45-8-315. Definition. "Concealed weapon" means any weapon mentioned in 45-8-316 through 45-8-318 and 45-8-321 through 45-8-328 that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon, except that for purposes of 45-8-321 through 45-8-328, concealed weapon means a handgun or a knife with a blade ~~4~~ 6 or more inches in length that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon."

Section 2. Section 45-8-316, MCA, is amended to read:

"45-8-316. Carrying concealed weapons. (1) A person who carries or bears concealed upon the individual's person a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife having a blade ~~4~~ 6 inches long or longer, razor, not including a safety razor, or other deadly weapon in an attempt to commit a criminal offense under Title 45 or during the commission of a criminal offense under Title 45 shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6 months, or both.

(2) A person who has previously been convicted of an offense, committed on a different occasion than the offense under this section, in this state or any other jurisdiction for which a sentence to a term of imprisonment in excess of 1 year could have been imposed and who carries or bears concealed upon the individual's person any of the weapons described in subsection (1) shall be punished by a fine not exceeding \$1,000 or be imprisoned in the state prison for a period not exceeding 5 years, or both."

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

"45-8-328. Carrying concealed weapon in prohibited place -- penalty. (1) Except ~~for legislative security officers authorized to carry a concealed weapon in the state capitol~~ as provided in ~~45-8-317(1)(k)~~ subsection (2), a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

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

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

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

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

(c) except for a restaurant or a restaurant-portion of a business operating with a restaurant beer and wine license as provided in 16-4-420, a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued under Title 16 for the sale of alcoholic beverages for consumption on the premises.

(2) Subsection (1) does not apply to:

(a) legislative security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k);

(b) on-duty or off-duty law enforcement officers;

(c) security guards acting in their official capacity as authorized by their employer; or

(d) employees who possess a concealed weapons permit under 45-8-321 and carry the concealed weapon in a business or building with the owner's written consent or in a business or building with the written consent of a manager who is authorized by the owner to provide consent.

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