

Montana Tavern Times

Presentation to the Montana Tavern Times Association – December 1, 2014

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In this month's article, I thought I would pass along some of the highlights from a recent presentation to the Montana Tavern Association at their meeting here in Helena. The topic they requested some general information on concerned Montana's laws pertaining to concealed weapons and open carry.

Concealed Weapon:

For definitional purposes, "concealed weapon" means a handgun or a knife with a blade 4 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. For a more specific definition, refer to Montana Code Annotated § 45-8-315.

Carrying a concealed weapon prohibited:

Under MCA § 45-8-316, it is a misdemeanor criminal offense for a person (without a permit) to carry or bear 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 inches long or longer, razor, not including a safety razor, or other deadly weapon.

Exceptions to this law are made for any peace officer of the state of Montana or of another state who has the power to make arrests; any officer of the United States government authorized to carry a concealed weapon; a person in actual service as a member of the national guard; a civil officer engaged in the discharge of official business; a probation and parole officer; an agent of the department of justice or a criminal investigator in a county attorney's office; a person who is outside the official boundaries of a city or town or the confines of a logging, lumbering, mining, or railroad camp or who is lawfully engaged in hunting, fishing, trapping, camping, hiking, backpacking, farming, ranching, or other outdoor activity in which weapons are often carried for recreation or protection; the carrying of arms on one's own premises or at one's home or place of business; or the carrying of a concealed weapon in the state capitol by a legislative security officer who has been issued a permit.

While I won't go into detail in this article, if a person is interested in receiving a permit to carry a concealed weapon legally, they must apply for and meet all the requirements under MCA § 45-8-321. Please consult with your local Sheriff's office for more information regarding the permitting process.

What I will touch on briefly however, are the restrictions for a person with a concealed weapons permit (or CWP): A permit holder cannot:

1. Be intoxicated while carrying a concealed weapon (MCA § 45-8-327)

2. Carry a concealed weapon in state or government offices or buildings; schools; banks, credit unions, or savings and loan institutions;
3. Carry a concealed weapon in 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.
4. Carry a concealed weapon on a train.

Local governments are allowed to regulate the carrying of both concealed and unconcealed weapons in certain areas, including public assemblies, public buildings, parks, and schools. Please check your local regulations.

County sheriffs can provide information on where concealed weapons are prohibited in their counties. Montana state law contains no prohibitions against carrying a weapon in a motor vehicle.

Open Carry State:

Montana is an open-carry state, which means a person may carry an unconcealed weapon in a city, town, logging camp, county, etc., without needing a CWP. Those persons are not prohibited by law from entering into a location where alcoholic beverages are sold, nor do they have the same restriction as a CWP holder regarding intoxication. Once again, check local laws for restrictions.

Here are a few frequently asked questions regarding CWPs:

Do I need a CWP to carry a weapon concealed at my own home or business?

Generally no, unless some other law prevents carrying at that location.

Do I need a CWP to carry a weapon while hiking or hunting?

No. You may carry a concealed weapon without a CWP while lawfully engaged in hunting, fishing, trapping, camping, hiking, backpacking, farming, ranching, or other outdoor activity in which weapons are often carried for recreation or protection.

Do I need a CWP to carry a concealed weapon outside of town?

Generally no. You may carry a concealed weapon without a permit if you are outside the official boundaries of a city or town or the confines of a logging, lumbering, mining or railroad camp.

How do the concealed weapons laws affect the carrying of knives?

It is illegal to conceal a knife with a blade that is 4 inches or longer. A CWP authorizes a person to carry a knife with a blade that is 4 inches or longer in a concealed manner.

I don't have a CWP. Can I still carry a firearm as long as it is not concealed?

Generally yes, but there are various state and local laws prohibiting carrying of a firearm—concealed or unconcealed—in certain places or under certain circumstances. Consult your attorney.

Can the owner or proprietor of a residence or business prohibit carrying of a weapon if I have a CWP?

Yes, the owner or proprietor of a property may prohibit all weapons on that property.

You can find more information on the Dept. of Justice website:
<https://dojmt.gov/features/frequently-asked-firearms-questions/>