

\$19.95



WHEN CAN I LEGALLY SHOOT?

THE LAW OF DEADLY FORCE IN MONTANA



I'M CHARGED WITH WHAT?

IF YOU ARE IN THE UNFORTUNATE POSITION TO BE CHARGED WITH A CRIME INVOLVING A FIREARM IN MONTANA, HOW SERIOUS IS IT?

MISDEMEANORS

FIRING FIREARMS

Willfully shooting or firing off a gun, pistol, or any other firearm within the limits of any town or city or of any private enclosure which contains a dwelling house without a legal justification.

Punishment: Up to \$25 fine, but varies per city or town.

NEGLIGENT ENDANGERMENT

Negligently engaging in conduct that creates a substantial risk of death or serious bodily injury to another.

Punishment: Up to 1 year in jail and up to a \$1,000 fine.

ASSAULT

Purposely or knowingly causing bodily injury to another; negligently causing bodily injury to another with a weapon; purposely or knowingly making physical contact of an insulting or provoking nature with any individual; or purposely or knowingly causing reasonable apprehension of bodily injury in another.

Punishment: Up to 6 months in jail and up to a \$500 fine.

PUNISHMENTS

Montana does not have classes of misdemeanors. Punishment ranges are typically found in the specific statute for each misdemeanor. A "misdemeanor" means an offense for which the sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison for a term of 1 year or less.

PUNISHMENT

Montana does not have classes of felonies. Punishment ranges are typically found in the specific statute for each felony. A "felony" is any offense for which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year.



WHERE THE LAW IS LOCATED Montana Code Annotated

§ 45-8-343	Firing Firearms
§ 45-5-208	Negligent Endangerment
§ 45-5-201	Assault
§ 45-5-203	Intimidation
§ 45-5-202	Aggravated Assault
§ 45-5-213	Assault With Weapon
§ 45-5-207	Criminal Endangerment
§ 45-5-104	Negligent Homicide
§ 45-5-103	Mitigated Deliberate Homicide
§ 45-5-102	Deliberate Homicide

FELONIES

INTIMIDATION

With the purpose to cause another to perform or to omit the performance of any act, communicating to another, under circumstances that reasonably tend to produce a fear that it will be carried out, a threat to perform without lawful authority any of the following acts: (a) inflict physical harm on the person threatened or any other person; (b) subject any person to physical confinement or restraint; (c) or commit any felony.

Punishment: Up to 10 years in prison and up to a \$50,000 fine.

AGGRAVATED ASSAULT

Purposely or knowingly causing serious bodily injury to another or purposely or knowingly, with the use of physical force or contact, causing reasonable apprehension of serious bodily injury or death in another.

Punishment: Up to 20 years in prison and up to a \$50,000 fine, unless exceptions apply.

ASSAULT WITH WEAPON

Purposely or knowingly causing: (a) bodily injury to another with a weapon; (b) or reasonable apprehension of serious bodily injury in another by use of a weapon or what reasonably appears to be a weapon.

Punishment: Up to 20 years in prison and up to a \$50,000 fine.

CRIMINAL ENDANGERMENT

Knowingly engaging in conduct that creates a substantial risk of death or serious bodily injury to another.

Punishment: Up to 10 years in prison and up to a \$50,000 fine.

NEGLIGENT HOMICIDE

Negligently causing the death of another human being.

Punishment: Up to 20 years in prison and up to a \$50,000 fine.

MITIGATED DELIBERATE HOMICIDE

Purposely or knowingly causing the death of another human being or purposely or knowingly causing the death of a fetus of another with knowledge that the woman is pregnant, under the influence of extreme mental or emotional stress for which there is reasonable explanation or excuse.

Punishment: Not less than 2 years or more than 40 years in prison and up to a \$50,000 fine, unless exceptions apply.

DELIBERATE HOMICIDE

(a) Purposely or knowingly causing the death of another human being; (b) attempting to commit or committing assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, causing the death of another human being; (c) or purposely or knowingly causing the death of a fetus of another with knowledge that the woman is pregnant.

Punishment: Death for those 18+ OR life imprisonment OR not less than 10 years or more than 100 years in prison, unless exceptions apply.



BY WHAT STANDARD WILL THE LAW JUDGE MY ACTIONS...

IF I USE DEADLY FORCE?

**ACTIONS ARE
LEGALLY JUSTIFIED**

IF



**YOU REASONABLY BELIEVE ANOTHER IS
ABOUT TO USE...**



UNLAWFUL, DEADLY FORCE.



WHAT IS REASONABLE? WHO DECIDES?

The law will judge your actions (*i.e.*, use of deadly force) by using the reasonable belief standard. That is—did you have a reasonable belief that you were in imminent danger of unlawful harm? Circumstances surrounding your use of force are also relevant. This standard considers whether the amount of force used was reasonable and necessary under the circumstances. The reasonable belief standard is the law's attempt to make these concepts both an objective and a subjective test. If the legal system (ultimately this could be a jury) determines that a reasonable person would have a fear of imminent danger under the circumstances, then you were legally justified in using deadly force. However, juries, judges, and prosecutors are human beings, and people can have vastly different ideas of how a reasonable person should act under any given circumstances. This is particularly true if asked to decide when deadly force is justified. *State v. Courville*, 61 P.3d 749 (Mont. 2002); *State v. Arlington*, 875 P.2d 307 (Mont. 1994).



WHEN IS IT NOT A CRIME?

LEGAL JUSTIFICATION OF DEADLY FORCE

IN MONTANA

Legal justification is a set of circumstances that the law says is a valid reason for a person doing something that would otherwise be a crime.

LEGAL JUSTIFICATION OF DEADLY FORCE

YOU

LEGALLY JUSTIFIED

Not Guilty of a Crime

NOT LEGALLY JUSTIFIED

Guilty of a Crime; Subject to Penalties of the Offense

As a general rule, it is illegal to shoot someone. However, if done under a particular set of circumstances (e.g., self-defense, defense of others, etc.), the law states a person is privileged to use deadly force against another.

WHAT IS BODILY INJURY?

Bodily Injury: Physical pain, illness, or an impairment of physical condition and includes mental illness or impairment. Mont. Code Ann. § 45-2-101(5).

WHAT IS SERIOUS BODILY INJURY?

Serious Bodily Injury: Bodily injury that: (i) creates a substantial risk of death; (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ. The term includes serious mental illness or impairment. Mont. Code Ann. § 45-2-101(66).

WHAT IS DEADLY FORCE?

While the Montana Code Annotated does not specifically define “deadly force,” the code does define “Force likely to cause death or serious bodily harm,” as: (1) the firing of a firearm in the direction of a person, even though no purpose exists to kill or inflict serious bodily harm; and (2) the firing of a firearm at a vehicle in which a person is riding. Mont. Code Ann. § 45-3-101.



INVOKE YOUR LEGAL RIGHTS!

WHAT TO DO AFTER BANG!



COUNTLESS MEN AND WOMEN HAVE SACRIFICED THEIR LIVES AND FORTUNES SO THAT WE AMERICANS MAY HAVE LEGAL RIGHTS — DON'T WAIVE THEM. IF YOU'RE INVOLVED IN A SHOOTING, YOU MAY NEED EVERY LEGAL RIGHT AVAILABLE.

- Make sure the threat has been controlled.
- Call 911.
- Return the firearm to safe keeping if possible.
- Do not disturb the scene.

■ CALL YOUR LAWYER!

- When police arrive, comply with all commands in a non-threatening manner, keeping your hands clearly visible. The police do not know who the good guys and bad guys are when they first arrive.

- Inform police that you have been a victim of a crime. State to the police: **"I WISH TO INVOKE MY RIGHT TO REMAIN SILENT, AND I WANT TO CONSULT MY ATTORNEY BEFORE MAKING ANY STATEMENTS."**

- Make no statement to anyone about the incident; wait to talk to your attorney.

- If asked to accompany law enforcement, comply, but make no statements.

- Do not make jokes or cute remarks. Remain silent, even if you believe you have done nothing wrong.



THE 911 CALL

If you use your gun, dial 911 and get medical and police assistance. However, the only information that the 911 dispatcher needs to know from YOU is your name, the location of the emergency, what assistance is needed, and that you have been a victim of a crime. **DO NOT DISCUSS WHAT HAPPENED WITH THE OPERATOR!** All calls are recorded.



DON'T GIVE A STATEMENT

Talk to your lawyer before you make any statements about a shooting. If what you say does not match the physical or material evidence at the scene, you may have a huge problem regardless of how innocent your mistake may be. Your freedom, liberty, and fortune are at risk, so invoke your right to remain silent and your right to a lawyer.



THE ROLE OF THE POLICE

Law enforcement's main job after a shooting is to investigate. Remember, what you say to the police can and WILL be used against you. *Note:* the U.S. Supreme Court, in 2010, held that a police interrogation may go on indefinitely until you invoke your legal rights—so **INVOKE YOUR RIGHTS!**



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LAW OF SELF-DEFENSE

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

IN MONTANA

DEADLY FORCE IS LEGALLY JUSTIFIED IF YOU
REASONABLY BELIEVE IT IS NECESSARY TO PREVENT...



1
**IMMINENT DEATH
OR SERIOUS
BODILY HARM***

2
**KIDNAPPING AND
AGGRAVATED
KIDNAPPING***

3
**SEXUAL ASSAULT AND
SEXUAL INTERCOURSE
WITHOUT CONSENT***

4
**A FORCIBLE FELONY*
(E.G., HOMICIDE OR
AGGRAVATED ASSAULT)**

5
**UNLAWFUL FORCE
DURING BURGLARY***



You may use force likely to cause death or serious bodily harm only if you reasonably believe that the force is necessary to prevent imminent death or serious bodily harm to yourself or to prevent the commission of a forcible felony. Mont. Code Ann. § 45-3-102.

WHAT IS A FORCIBLE FELONY?

Forcible Felony: Any felony which involves the use or threat of physical force or violence against any individual. Mont. Code Ann. § 45-3-101(2).

* These offenses are listed for example purposes only, as they may involve the danger of imminent death, serious bodily harm, or a forcible felony.

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LAW OF DEFENSE OF OTHERS

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

IN MONTANA

DEADLY FORCE IS LEGALLY JUSTIFIED IF YOU
REASONABLY BELIEVE IT IS NECESSARY TO PREVENT...

YOU

1
IMMINENT DEATH
OR SERIOUS
BODILY HARM*

2
KIDNAPPING AND
AGGRAVATED
KIDNAPPING*

3
SEXUAL ASSAULT AND
SEXUAL INTERCOURSE
WITHOUT CONSENT*

4
A FORCIBLE FELONY*
(E.G., HOMICIDE OR
AGGRAVATED ASSAULT)

5
UNLAWFUL FORCE
DURING BURGLARY*



VICTIM



You may use force likely to cause death or serious bodily harm only if you reasonably believe that the force is necessary to prevent imminent death or serious bodily harm to another or to prevent the commission of a forcible felony. Mont. Code Ann. § 45-3-102.

WHAT IS A FORCIBLE FELONY?

Forcible Felony: Any felony which involves the use or threat of physical force or violence against any individual. Mont. Code Ann. § 45-3-101(2).

* These offenses are listed for example purposes only, as they may involve the danger of imminent death, serious bodily harm, or a forcible felony.

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PROTECTION OF YOUR PROPERTY

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

IN MONTANA

TRESPASSER

DON'T SHOOT! Deadly Force is **NOT Legally Justified!**

YOU



**CRIMINAL
TRESPASS**

**CRIMINAL
MISCHIEF**



Deadly Force is **NOT**
Legally Justified



You may use force but NOT deadly force to prevent or terminate another person's unlawful entry into or attack upon an occupied structure or to prevent or terminate the other person's trespass on or other tortious or criminal interference with either real property, other than an occupied structure, or personal property lawfully in your possession. Mont. Code Ann. §§ 45-3-103, 45-3-104.

TRESPASSER

Deadly Force **IS Legally Justified!**

YOU

To prevent unlawful force during the commission of:



FORCIBLE FELONY*



You may use deadly force when reasonably necessary to prevent the commission of a forcible felony (any felony which involves the use or threat of physical force or violence against any individual). Mont. Code Ann. § 45-3-104.

*Forcible felony includes but is not limited to: arson, kidnapping, aggravated kidnapping, aggravated assault, robbery, intimidation, and criminal endangerment (depending on the facts of the case).



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WHEN CAN YOU PROTECT SOMEONE ELSE'S PROPERTY...

WITH DEADLY FORCE?



PROTECTION OF A THIRD PARTY'S PROPERTY

Montana law allows you to use non-deadly force to protect another person's property, to the same extent you could protect your own property, if the property is in possession of your immediate family member, a member of your household, or a person whose property you have a legal duty to protect. Mont. Code Ann. § 45-3-104.

Montana law only allows you to use force likely to cause death or serious bodily harm, if you reasonably believe that the force is necessary to prevent an assault or to prevent the commission of a forcible felony. Mont. Code Ann. §§ 45-3-103, 45-3-104.



PROTECTION AGAINST ANIMALS

Montana provides a statutory justification for killing dogs to protect your livestock. Under Mont. Code Ann. § 81-7-401, a livestock owner may kill a dog if the dog, while on property owned, leased, or controlled by the livestock owner, harasses, kills, wounds, or injures livestock not belonging to the owner of the dog. The definition of livestock also includes: ostriches, rheas, and emus.



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THEFT AND ROBBERY

EXPLANATION OF SELECT CRIMES

IN MONTANA

THEFT

THE CRIME OF THEFT

A theft occurs when a perpetrator **purposely or knowingly...**

obtains or exerts unauthorized control over property of the owner

OR

obtains by threat or deception control over property of the owner

OR

obtains control over stolen property knowing the property to have been stolen by another

AND

has the purpose of depriving the owner of the property;

OR

purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property;

OR

uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

**See statute for full list of offenses.*



Mont. Code Ann. § 45-6-301

ROBBERY

THE CRIME OF ROBBERY

A robbery occurs when, in the course of committing a theft, a perpetrator...



Mont. Code Ann. § 45-5-401

inflicts bodily injury upon another;

OR

threatens to inflict bodily injury upon any person or purposely or knowingly puts any person in fear of immediate bodily injury;

OR

commits or threatens immediately to commit any felony other than theft.



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BURGLARY

THE CRIME OF BURGLARY

IN MONTANA



BURGLARY OCCURS WHEN A PERPETRATOR...

KNOWINGLY...

Enters or remains
unlawfully



in an occupied
structure



With the purpose to
commit an offense, or

**KNOWINGLY
OR
PURPOSELY
COMMITTS
ANY OTHER
OFFENSE.**



Mont. Code Ann. § 45-6-204

BUT IF THE PERPETRATOR...

In entering, in the course of committing, or immediate flight from...

Is armed, or co-conspirator is armed, with a
weapon or explosives

OR

Purposely, knowingly, or negligently inflicts or
attempts to inflict bodily injury upon anyone

THEN

The perpetrator would
be charged with
Aggravated Burglary



Mont. Code Ann. § 45-6-204

Occupied Structure: Any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present, including any outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually used for personal use or employment. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure.
Mont. Code Ann. § 45-2-101(47).



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ASSAULT

THE CRIME OF ASSAULT

IN MONTANA

ASSAULT OCCURS WHEN A PERPETRATOR...



Mont. Code Ann. § 45-5-201

Purposely or knowingly:
causes you bodily injury, or makes physical contact
of an insulting or provoking nature, or causes you
reasonable apprehension of bodily injury;

OR

Negligently causes you bodily injury while using
a weapon.



AGGRAVATED ASSAULT OCCURS WHEN A PERPETRATOR...



Mont. Code Ann. § 45-5-202

Purposely or knowingly causes you serious bodily injury;

OR

Purposely or knowingly, with the use of physical
force or contact, causes you reasonable
apprehension of serious bodily injury or death.



ASSAULT WITH WEAPON OCCURS WHEN A PERPETRATOR...



Mont. Code Ann. § 45-5-213

Purposely or knowingly causes you bodily injury
with a weapon or reasonable apprehension of
serious bodily injury by use of a weapon or what
reasonably appears to be a weapon.



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Do I Have To RETREAT?

AM I LEGALLY REQUIRED TO RETREAT?

IN MONTANA

■ The words “Stand Your Ground” are not found in the Montana Code Annotated. “Stand Your Ground” is the popular name for a legal doctrine referred to in the law as “No Duty to Retreat.” The Montana version of the “Stand Your Ground” law is located in Mont. Code Ann. § 45-3-110.

**MONTANA
LAW PROVIDES**

**NO RETREAT
IS NECESSARY**

**IF BOTH OF THE
FOLLOWING ARE MET:**



You are in a place or location lawfully; AND



You are threatened with bodily injury or loss of life.



Mont. Code Ann. § 45-3-110

“A defendant may stand his ground even if he reasonably believes he is in imminent danger of great bodily harm.” *State v. Sunday*, 609 P.2d 1188 (Mont. 1980).



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THE CASTLE DOCTRINE

USE OF DEADLY FORCE UNDER THE CASTLE DOCTRINE IN MONTANA

MONTANA



The words “Castle Doctrine” are not found in the Montana Code Annotated. The “Castle Doctrine” is the popular name for a legal philosophy that every person, as the “King” or “Queen” of his or her own home, never has to flee the castle before using deadly force against an intruder.

WHEN DO I GET THE PROTECTION OF THE “CASTLE DOCTRINE”?

IF

You reasonably believe that the force is necessary to prevent the commission of a forcible felony in...

OR

A perpetrator’s entry is made or attempted and you reasonably believe that the force is necessary to prevent an assault upon you or another located in...



AN OCCUPIED STRUCTURE



THEN

Montana law says you are “justified in the use of force likely to cause death or serious bodily harm.”



Mont. Code Ann. § 45-3-103

WHAT IS AN OCCUPIED STRUCTURE?

Occupied Structure: Any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present, including any outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually used for personal use or employment. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure. Mont. Code Ann. § 45-2-101(47).



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WHERE AM I LEGALLY ALLOWED TO CARRY?



LOCATION		Concealed With Permit Pistol	Open With Permit Pistol	Concealed Without License Pistol
	A person's home or dwelling.	✓	✓	✓
	A vehicle.	✓	✓	✓
	The residence or dwelling place of another person.*	✓	✓	✓
	Any premises or property owned, operated, or controlled by a private or public school, elementary or secondary school.*	✗	✗	✗
	Montana University System campuses.**	✗	✗	✗
	In a restaurant that sells alcoholic liquor, beer or wine for consumption on the premises.	✓	✓	✓
	A church or other established religious sanctuary.*	✓	✓	✓
	Any publicly owned buildings or property, or buildings used for local or state government offices that restrict firearms.	✓	✗	✗
	A hospital, medical clinic, doctor's office, or other facility where medical services or procedures are performed.*	✓	✓	✓
	A public place not otherwise prohibited by law.	✓	✓	✓
	Banks, credit unions, or savings and loan institutions.	✓	✓	✓
	Any park or facility under the jurisdiction of the Montana Fish, Wildlife, and Parks Department.***	✓	✓	✗
	A courthouse or courtroom.	✗	✗	✗
	Any law enforcement, correctional, or detention facility.	✗	✗	✗
	Any U.S. Post Office, VA Hospital, or other location prohibited by federal law.	✗	✗	✗
	A polling place on election days.*	✓	✓	✓
	Military installations.	✗	✗	✗

Note: Any non-prohibited person over the age of 18 may open carry a firearm in areas that are not publicly owned or operated buildings or prohibited areas, subject to the restrictions of local municipalities and state law.

*Note that the owner, employer, governing body, or other authority in charge of the premises or property may expressly authorize individuals to enter with or without a weapon. In some locations, administrative regulations may apply.

** In 2021, the 67th Montana Legislature passed House Bill 102, which was signed into law by Governor Gianforte. HB 102 included a framework for the Montana University System ("MUS") to place some restrictions upon permit holders lawfully carrying a handgun on campuses beginning June 1, 2021. However, as of the publish date of this booklet, the relevant campus carry sections of HB 102 are currently under a stay as a result of a pending lawsuit in Cause No. BDV-2021-598; Board of Regents of Higher Education of the State of Montana v. The State of Montana in the Montana First Judicial District Court, Lewis and Clark County. **Carrying a firearm on a MUS campus is prohibited until the courts have settled this issue.**

*** Individuals without permits may be able to carry a concealed weapon depending on the location of the park and whether non-permitted carry is expressly prohibited by the Montana Fish, Wildlife, and Parks Department.

CIVIL LIABILITY

YOU'RE NOT OUT OF THE WOODS YET

TWO INDEPENDENT LEGAL SYSTEMS

CRIMINAL SYSTEM



**THE STATE
vs.
YOU**

Seeking
to Deprive Freedom



CIVIL SYSTEM



**ANOTHER
vs.
YOU**

Seeking
Monetary Compensation



§ THE LAW

If you have used force or deadly force in defense of yourself or another pursuant to Mont. Code Ann. § 45-3-102 or in defense of premises and property pursuant to Mont. Code Ann. §§ 45-3-103, 45-3-104, and you are justified in using such force, the law will grant you immunity from civil liability for personal injuries sustained by the perpetrator as a result of the use of force. Mont. Code Ann. § 27-1-722.

In a civil action initiated by or on behalf of a perpetrator, the court will award you reasonable attorneys' fees and costs, including expert witness fees and court costs. Mont. Code Ann. § 27-1-722.

⊘ WHAT IT'S NOT

It is a common misconception that if you are justified in using force or deadly force that the law provides complete protection or "immunity" from the civil legal system. It does not. It is NOT an immunity from people suing you.

In addition, if the criminal justice system has not made a determination of your justification for the use of deadly force, the issue will have to be decided by a civil trial judge and/or jury. Thus, the necessity for this determination of justification will force you deeper into the civil law system.



*Note to
U.S. LawShield® Members:*

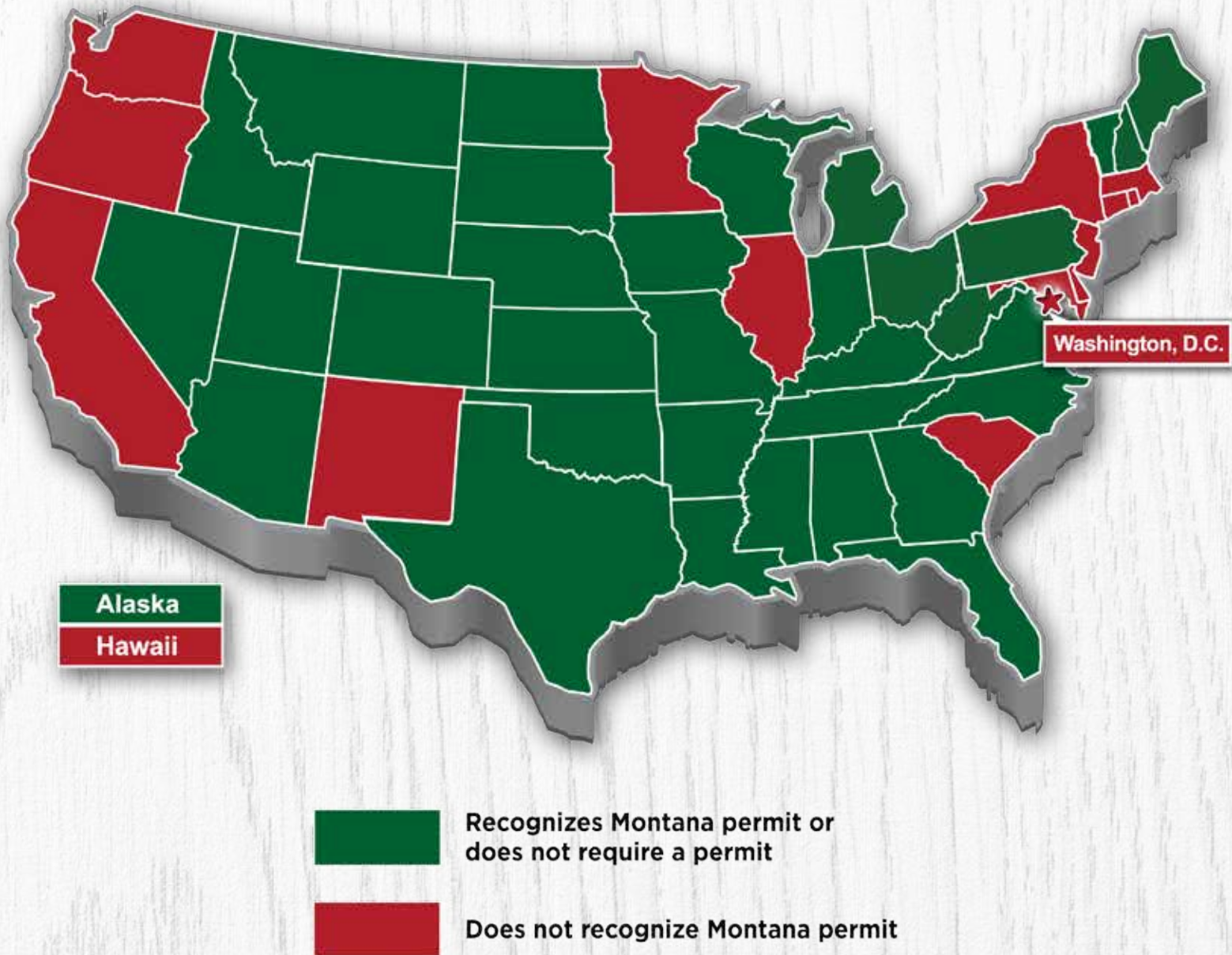
**All of your attorneys'
fees are covered for both the
criminal and civil systems.**

**WE DEFEND YOUR
RIGHT TO BEAR ARMS**



MONTANA RECIPROCITY MAP

Which States Recognize a Montana Permit to Carry a Concealed Weapon?



Important Note: There may be additional restrictions on carrying a handgun in states that do not require a license or permit (e.g., must be 21 years of age or older, must not otherwise be prohibited from possessing a firearm, etc.). **CHECK THE LAW BEFORE YOU TRAVEL.**

TRAVEL AND FIREARMS

IF YOU ARE NOT IN MONTANA



YOU ARE LEAVING MONTANA

Montana and Montanans are unique in this world. If you think otherwise, try getting homemade huckleberry jam anywhere else! As you might expect, gun laws in Montana are also unique. Our state's firearms laws, in some manners, are more restrictive than other states by comparison. In other circumstances, Montana laws are less restrictive. If travel plans take you beyond the borders of the Treasure State, and you wish to continue exercising your 2nd Amendment rights in one of the other states in the Union, familiarize yourself with that state's laws! When you are in another state, you are subject to that state's laws. There is no standardization of gun laws within the 50 individual states (not to mention Native American Reservations and Lands). Even states that are thought of as "gun friendly" can have peculiar quirks in their firearm laws. For example:

IDAHO

Under Idaho laws, no person may discharge firearms within any state park, except in the lawful defense of persons or property or in the course of lawful hunting.

NORTH DAKOTA

North Dakota residents can openly carry without a permit. However, non-residents must have a valid permit to carry in order to open carry in North Dakota.

WYOMING

In Wyoming, it is a felony to take a firearm to the state hospital. If you get injured while traveling in Wyoming, make sure to secure your firearm in your vehicle before seeking treatment.

EACH STATE HAS DIFFERENT GUN LAWS

The firearms laws of the various states are usually found on that state's chief law enforcement department, attorney general, or department of justice website. If you are traveling to or through a state that does not honor a Montana permit, it is imperative that you check the laws of that state concerning legally traveling with a firearm. States that do not recognize a Montana permit might strictly prohibit possession of firearms, certain magazines, or ammunition. Traveling to these states can be a costly mistake resulting in felony charges and imprisonment. If you are only traveling through one of these states, you may be eligible for protections under 18 U.S.C. § 926A (see below). Take the time to know the law!

"Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console." 18 U.S.C. § 926A.



CONSTITUTIONAL CARRY AND WHY TO OBTAIN A PERMIT TO CARRY

WHY SHOULD I STILL GET A PERMIT?



IN MONTANA

MONTANA CONSTITUTIONAL CARRY QUALIFICATIONS

“Constitutional carry” is a broad term applied to states that do not require a license or permit to carry a handgun. On February 18, 2021, Governor Greg Gianforte signed into law House Bill 102, making Montana a constitutional carry state. This law allows a qualified individual to carry a firearm in a public place without any carry permit.

For a person to qualify for constitutional carry, the person must:

- ✓ Be eligible to possess a firearm under state or federal law. Mont. Code Ann. § 45-8-316.
- ✓ Be located in a place where firearms are not prohibited. Mont. Code Ann. §§ 45-8-328, 45-8-356, 87-5-401.

*Note: Many provisions of House Bill 102 were effective immediately upon passage and approval in February 2021, others went into effect on June 1, 2021.

The following people are specifically disqualified from constitutional carry:

- ✗ A person convicted of a felony for which he or she received an additional sentence under Mont. Code Ann. § 46-18-221 (Additional Sentence for Offenses Committed with Dangerous Weapon). Mont. Code Ann. § 45-8-313(1)(a).
- ✗ A person convicted of an offense under the law of another state or federal law that is equivalent to an offense in Montana that is subject to an additional sentence under Mont. Code Ann. § 46-18-221. Mont. Code Ann. § 45-8-313(1)(b).
- ✗ A person convicted of a felony for which the person is currently required to register for the sexual or violent offender registry. Mont. Code Ann. § 45-8-313(1)(c).
- ✗ Individuals otherwise ineligible to possess a firearm under state or federal law. See Mont. Code Ann. § 45-8-316.



CONSTITUTIONAL CARRY AND WHY TO OBTAIN A PERMIT TO CARRY

WHY SHOULD I STILL GET A PERMIT?

MONTANA



IN MONTANA

WHY GET A PERMIT?

With the arrival of permitless carry (sometimes referred to as “constitutional carry”) in the State of Montana, it may seem like Concealed Weapons Permits (“CWPs”) are no longer needed or worth the investment. However, while permitless carry may appear to be the simplest way to protect yourself and your family, many benefits come along with being a license or permit holder.

- **RECIPROCITY**

For many people, carrying a handgun for self-defense while traveling to other states is vital.

Many states may honor a valid license or permit to carry, but those same states will not honor another jurisdiction’s constitutional carry laws.

There are many states that still require a license or permit to carry a handgun while visiting their state. Even amongst constitutional carry states, not every state allows for non-resident constitutional carry. This means you may still need a license or permit to carry when in another state.

- **FEDERAL GUN-FREE SCHOOL ZONES**

The Federal Gun-Free School Zones Act generally prohibits carrying a firearm within 1,000 feet of a public, parochial, or private elementary, middle, or high school. There are several exceptions to this law; chief among them is the exception for carrying a firearm within 1,000 feet of a school by a person who holds a handgun permit or license from the state where the

school grounds are located. This means a person who carries an accessible handgun in their vehicle while picking up or dropping off their child from a Montana school without a Montana CWP violates federal law; whereas someone who holds a Montana permit does not. See 18 U.S.C. § 922(q).

- **DESIGNATED “GOOD GUY”**

Many law enforcement officers view Montana permittees as “pre-vetted,” and have grown accustomed to and comfortable with the interactions with these law-abiding gun owners.

Additionally, there may be private property owners who have grown comfortable with Montana permittees carrying in their places of business but are uneasy with the thought of constitutional or permitless carriers exercising their rights on their property.

Generally, most states provide property owners with the right to prohibit entry or refuse service to anyone if the reason for such denial does not infringe upon the rights of a legally protected class of people.

- **FAST LANE FOR FIREARM PURCHASES (AVOID BACKGROUND CHECK DELAY)**

Generally, every person who purchases a firearm from a Federal Firearms Licensed dealer (“FFL”) is subject to a background check through the National Instant Criminal Background Check System (“NICS”). This can lead to delays and erroneous denials due to mistaken identity. However, a NICS background check may not be required if the transferee is legally exempt for reasons such as possessing a state-issued firearms license, like a Montana CWP. See 18 U.S.C. 922(t)(3); see also Mont. Code Ann. § 45-8-330.

- **ADDITIONAL BENEFIT FOR PERMITEES**

Under Mont. Code Ann. § 45-8-359, an individual with a carry permit who is deprived of their rights to carry in a location other than statutorily prohibited locations has a cause of action against the governmental entity responsible for restricting their right to conceal carry and may be awarded reasonable costs, attorney fees, and damages.



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FOR
SELF DEFENSE

WHAT IS U.S. LAWSHIELD®?

The U.S. LawShield Legal Defense for Self Defense® Program is dedicated to preserving the Constitutional rights of self-preservation for all persons in Montana and ensuring legal representation for our members who have to use a firearm or other legal weapon. In addition, a cornerstone of our program is education in self-defense law. An informed citizenry is essential to preserve our country's rich heritage and all of our rights.

UNDERSTANDING YOUR BOOKLET

This booklet is a guide to when you may or may not use deadly force in the State of Montana; it demystifies the criminal process, attempts to explain some otherwise murky legal concepts, and most importantly, helps you identify when you may use deadly force to defend yourself, others, or property. Prepared by a team of lawyers and industry experts, this booklet is the result of extensive legal research and real-world experience dealing with the system. It was written by lawyers who work in this area on a daily basis and have extensive experience with firearms and the law relating to firearms. This wealth of knowledge has been distilled into this booklet, which provides concepts and rules of law in a simple and understandable format.

With that said, this booklet is not a substitute for a lawyer. Many volumes of books have been written on these topics, and one could spend many lifetimes studying these complex issues of law. As such, we have attempted to condense these points into a digestible format that can be read within a reasonable time frame, but there are complex nuances in the laws that are not all covered. This booklet is not all-encompassing. This booklet is, instead, an aid, a starting foundation, helping you with the first steps of your journey to understand the legal system and laws pertaining to the use of deadly force.

Any of the information in this booklet is solely a general legal discussion of the law of Montana and should not be considered as giving legal advice, nor creating an attorney-client relationship. This booklet is not a substitute for legal advice on any particular situation. Your situation may be different, so contact an attorney regarding your personal circumstances. Only a licensed attorney may give you legal advice.

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