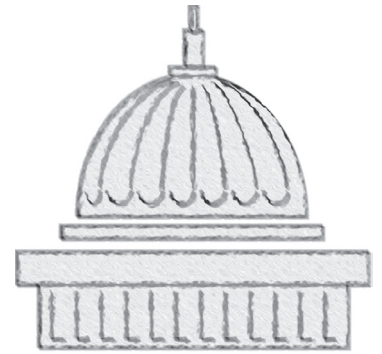


# NRA / ILA Firearms Laws for

## MONTANA

(As of June, 2010)



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### A SYNOPSIS OF STATE LAWS ON PURCHASE, POSSESSION AND CARRYING OF FIREARMS.

#### QUICK REFERENCE CHART

	Rifles and Shotguns	Handguns
Permit to Purchase	No	No
Registration of Firearms	No	No
Licensing of Owners	No	No
Permit to Carry	No	Yes*

\* A permit to carry concealed is not needed outside the limits of cities or towns (see CARRYING).

#### STATE CONSTITUTIONAL PROVISION

“The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.” Article 2, Section 12.

#### PURCHASE

No state permit is required for the purchase of any rifle, shotgun or handgun.

#### POSSESSION

No state permit is required to possess a rifle, shotgun or handgun.

It is unlawful for a parent or a guardian to permit a minor under 14 years of age to carry or use a firearm in public unless the minor is accompanied by the parent or guardian or under supervision of a qualified firearms safety instructor who has been authorized by the parent or guardian.

It is unlawful to purposely and knowingly possess, carry or store a firearm in a school building, or for a parent to permit a minor to do so.

#### CARRYING

##### Open Carry

The open carry of a weapon is generally allowed by any person who is not otherwise prohibited from doing so under federal

or state law. A person carrying openly may communicate to another person the fact that the person has a weapon.

##### Concealed Carry

It is unlawful to carry or bear a concealed handgun without a permit to carry. Concealed is defined as wholly or partially covered by the clothing or wearing apparel. This prohibition on concealed carry does not apply to peace officers, 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, or the carrying of arms on one's own premises or at one's home or place of business.

A county sheriff shall within 60 days after the filing of an application issue a permit to carry a concealed weapon for a term of four years. The applicant must be a U.S. citizen, 18 or older, holds a valid picture identification issued by the state, and a resident of the state for at least 6 months. A permit may not be denied unless the applicant is ineligible under Montana or federal law to own, possess, or receive a firearm; has been charged and is awaiting judgment in any state for a state or federal crime that is punishable by incarceration for one year or more; has been convicted in any state or federal court of a crime punishable by more than one year of incarceration or, regardless of the sentence that may be imposed, a crime that includes as an element certain acts, attempted acts, or threats; has been convicted of carrying a concealed weapon while under the influence or of carrying a concealed weapon in a prohibited place and the applicant has not been pardoned or five years have not elapsed since the date of conviction; was dishonorably discharged from the United States armed forces; has a warrant outstanding for his arrest; has been adjudicated to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred sentence, treatment or education, or other condition of release or is otherwise under state supervision; or has been adjudicated to be mentally ill, defective, or disabled and is still subject to a disposition order of that court.

A permit may be denied based on a reasonable cause to believe that the applicant is mentally ill, defective, or disabled

or otherwise may be a threat to the peace and good order of the community. At the time the permit is denied, the sheriff shall give the applicant a written statement of the reasonable cause upon which the denial is based unless the applicant is the subject of an active criminal investigation. Some persons with a prior felony conviction, whose rights have been restored, may be entitled to the issuance of a concealed weapon permit if they are otherwise eligible. An applicant must demonstrate familiarity with a firearm by completion of a firearm safety course or possession of a license from another state to carry a firearm that is granted upon completion of a course demonstrating familiarity with a firearm. The permit fee is \$50.00; renewal is \$25.00. A criminal history record and background check of the applicant shall be conducted and a \$5.00 fee may be charged for fingerprinting. A permit may be revoked or its renewal denied if circumstances arise that would require refusal to grant the permittee an original license. Denials and revocations are subject to appeal to the District Court and then to the Montana Supreme Court. Changes of address notifications must be given within 10 days.

The issuer of a permit is not liable for damages in a civil action by a person or entity claiming death, personal injury, or property damage arising from alleged wrongful or improper grant, renewal, or failure to revoke the permit, except for actions that constitute willful misconduct or gross negligence.

It is unlawful to purposely and knowingly carry a concealed firearm under the influence of an intoxicating substance or in portions of a building used for state or local government offices and related areas in the building that have been restricted; financial institutions during their normal business hours, but this does not prohibit carrying a concealed weapon while using the institution's drive-up window, ATM, or unstaffed night depository, or if the branch is in a mall or grocery store or other place unless the person is inside the enclosure used for the institution's financial services or using its financial services; or a room where alcoholic beverages are sold, dispensed, and consumed under a license issued for the sale of alcoholic beverages for consumption on the premises.

A concealed weapon permit from another state is valid in Montana if the person issued the permit has the permit in the person's immediate possession, the person bearing the permit is also in possession of an official photo identification of the person, and the state that issued the permit requires a criminal records background check for permit applicants prior to issuance.

## ANTIQUES

Montana statutes are silent on antique and replica firearms. They are treated as ordinary firearms for possession and carrying purposes.

## MACHINE GUNS

A machine gun is defined as a firearm designed to discharge more than one shot by a single function of the trigger.

Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is punishable by not less than 20 years in prison. Possession or use of a machine gun for an aggressive or offensive purpose is prohibited. A presumption of possession for an aggressive or offensive purpose is raised by possession or use by a person who has been convicted of a crime of violence.

This law does not prohibit or interfere with the possession of a machine gun for scientific purposes, or the possession of a machine gun that is not usable as a weapon and possessed as a curiosity, ornament or keepsake, or the possession of a machine gun for a purpose manifestly not aggressive or offensive.

## MISCELLANEOUS

If a firearm is possessed by a law enforcement agency that was not purchased for agency use is legal for any law-abiding individual to own, or if the lawful owner cannot be located, then the agency must not destroy the firearm but sell it to a licensed firearms dealer.

The right to sue a firearms or ammunition manufacturer, trade association, or dealer for abatement, injunctive relief, or tort damages resulting from or relating to the design, manufacture, marketing, or sale of firearms or ammunition sold to the public is reserved exclusively to the state and may not be exercised by a local government. The state may sue on its own behalf or on behalf of a local government unit, or both.

No unit of local government may prohibit, register, tax, license, or regulate the transfer, delay in transfer, ownership, possession, transportation, use, or carrying of firearms. But local governments may regulate the discharge of firearms and may prevent the carrying of firearms to a public assembly, publicly owned building, park, school, and the possession of firearms by minors and other prohibited persons.

It is unlawful to shoot a firearm within the limits of any town or city or a private enclosure that contains a dwelling house.

It is unlawful to shoot game from any self-propelled or drawn vehicle or on or from a public highway.

It is unlawful to shoot a firearm from or across the right-of-way of a highway.

It is unlawful to discharge a firearm from or upon a snowmobile.

It is unlawful to remove or otherwise obscure the manufacturer's serial number on any firearm with the purpose of concealing, misrepresenting or transferring the firearm.

Source: Montana Code Annotated, 2003, §§7-1-115, 23-2-633, 27-1-720, 45-6-326, 45-8-302 through 307, 45-8-313 through 318, 45-8-321 through 330, 45-8-339 through 406, 61-8-369, 87-3-101, and 87-3-123.

**CAUTION:** Firearm laws are subject to frequent change and court interpretation. This summary is not intended as legal advice or restatement of law. This summary does not include federal or local laws, ordinances or regulations. For any particular situation, a licensed local attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

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