



# **Introduction To Montana State Gun Laws & The Use Of Force**

*Presented by:*

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# Montana Tactical Firearms Instruction, Inc.

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## Learning Objectives:

This module on the “Montana State Gun Laws” has been developed by MTFI at the request of the Gallatin County Sheriff’s Office, for students who have been referred to Montana Tactical Firearms Instruction, Inc. by their office.

The objective of the module is to introduce students to Montana State gun laws pertaining to firearms used in defense, the carrying of concealed weapons and the Use of Force in the state of Montana.

In addition, the Montana Department of Labor & Industry/Business Standards Division requires that we, as MT State Licensed Firearms Instructors also teach this module.

**Please Note:** This module does not include all Montana Codes Annotated (MCA) gun laws and we encourage you to research MCA firearms laws on your own. In addition, MT Gun Laws change every two years. As such, we recommend that you keep track of changes made

## Disclaimer:

Montana Tactical Firearms Instruction, Inc., (**MTFI**) and Vanguard Security Consultants, Inc., (**VSC**), its staff, agents, associates and instructors, **are not attorneys at law**; therefore, we cannot provide legal counsel or advice relative to Montana State laws. Hence, this module **should not be misconstrued** as legal advice. You are responsible and encouraged to seek professional legal council relative to these topics through your personal legal representative, law enforcement agency of jurisdiction or the Montana State Attorney Generals Office.

## Mr. Austin Knudsen, Attorney General

Montana State Attorney General’s Office ~ Phone: (406) 444-2026

In addition, the Montana State Attorney General’s Office also has a section titled: “Frequently Asked Firearms Questions in Montana” which can be located at:

[dojmt.gov/features/frequently-asked-firearms-questions](http://dojmt.gov/features/frequently-asked-firearms-questions)

## Considerations Before Carrying Concealed Weapons or Firearms

MTFI and VSC strongly urge all who desire to carry a concealed firearm/weapon become educated by reading and researching the topic of Montana State gun laws and the Use of Force/Lethal Force.

Students should strongly consider the consequences of using force/lethal force as it relates to the potential dynamics of either criminal proceedings or civil litigation instituted against the user of “force” in accordance with local, state and federal law.

In addition, students should be cognizant that the result of utilizing force/lethal force may have deleterious ramifications including:

- 👤 *Personal*
- 👤 *Financial*
- 👤 *Social*
- 👤 *Emotional*
- 👤 *Psychological*
- 👤 *Spiritual impact*

Therefore, these issues should be considered prior to carrying or using a concealed weapon or firearm. Information and education on the topic of the Montana State gun laws, the use of force/lethal force can be found through sundry media forms, including, but not limited to: bookstores, reputable firearms magazines, periodicals, the internet, local public library or law library.

### **Is A Firearm the Best Tool for Every Situation?**

The answer is unequivocally no! A firearm is not the first tool you should go to during an incident. Here are a few ideas which you might want to consider in your personal protection plan:

- ★ The best weapon you have is the one between your ears.
- ★ The best tactic you have is avoidance and situational awareness.
- ★ Don't put yourself into dangerous situations or locations which may go bad.

### **Liability, Self Defense and Accountability**

Students should recognize that they will be held legally accountable for use of force actions they take during an incident. Having a good attorney beforehand is wise. Students should be aware of the dangers of using a firearm or “combative strikes” (without or with a tool or object) on a subject whom you have determined to be a threat. *You must be able to articulate at some point in time why you chose the action you did, as well as explain why a particular weapon, technique or strike is congruent with Montana State Law: **45-3-102 MCA.***

In addition, any self defense technique, firearm or self defense tool used may cause severe or irreparable injury or death to a subject used upon. Even though a self defense tool may be called “non-lethal or less than lethal” caution should be used, as any object can create severe injury or death to which you will be held legally accountable in a civil or criminal court.

## Justifiable Use of Lethal Force

When deciding if you are justified in the use of force/lethal force, the following considerations must be processed by you. Primarily, you should consider the following factors before using any form of force/lethal force:

- Ask yourself, “Am I (or someone else) in **imminent** (immediate) fear of great bodily injury or death?” Is the attacker within **close proximity** to you (or someone else) and does he/she have the **opportunity, ability** and **means** to inflict great bodily injury or death to you (or someone else) placing you (or someone else) in **jeopardy**?
- Or you can ask yourself, “Who’s life will I save if I draw my firearm”?

*Note: We do not train to shoot to kill; we train to stop the threat. Once the threat is down, we maintain control over the threat until assistance arrives, or it is not longer safe for you to remain.*

## A Measured Response to a Threat

The use of force/lethal force against an attacker should be used in measure in comparison to the perceived threat. Charges of “excessive force” can be applied to the user of force through criminal or civil courts. MTFI & VSC are not saying you can’t defend yourself, just use common sense and measure when deciding which technique or weapons system to employ. *Once you have stopped the attacker, and the immediate threat is over; then it is over. Do not further engage or apply force to the attacker.*

Ultimately the decision to use a firearm, self defense technique or weapons system is yours to make; so choose wisely.

## You and Your Attorney

Finally, have access to legal representation. Keeping your family attorney’s business card on you, or their phone number in your mobile phone contacts, will prove helpful when under stress and when legal counsel is needed. Communicate with your attorney before hand “what if” scenarios so that you are aware of what to expect once you have defended yourself. We have provided you with a business card of the attorney we recommend for this very purpose.

## Attorney Referral

MTFI endorses Missoula Attorney Lance Jasper as our legal representative regarding use of force incidents and state weapons laws. **Lance Jasper** is an experienced and recognized trial lawyer and specializes in Montana State firearms laws and use of force cases:

Reep - Bell - Laird - Simpson & **Jasper** - Attorneys at Law  
202 W. Spruce Street - P.O. Box 16960 - Missoula, MT 59808

**Office: (406) 541-4100** ~ Fax: (406) 541-4101 - E-mail:  
[jasper@westernmontanalaw.com](mailto:jasper@westernmontanalaw.com)

## Resources for Gun Laws Nationwide

The Staff of MTFI & VSC reminds you to check each state when traveling with, or transporting, a firearm.

Each state has differing firearms laws and carrying concealed weapons and transportation restrictions. For updated information on State guns laws go either:

**NRA-ILA.ORG. - Handgunlaw.us**

**OR**

**www.usconcealedcarry.com**



**Carry allowed with my Montana permit?**

- No
- Yes, Selected State(s)
- Yes
- Yes, Constitutional Carry ([Check Ages](#))
- [Yes, Other Restrictions](#)

**Note: You are responsible for validating your own information.**

## **MCA 45-8-315. Definition. Concealed Weapon.**

“**Concealed Weapon**” means a **firearm** that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon.

### **Montana Law and The Carrying of Firearms**

If you are not prohibited by law, you are lawfully allowed to carry firearms in the three (3) following manners.

- |                           |   |
|---------------------------|---|
| <b>1. Open Carry</b>      | <b>No Permit Required</b>                                 |
| <b>2. Concealed Carry</b> | <b>No Permit Required<br/>(Known as Permitless Carry)</b> |
| <b>3. Concealed Carry</b> | <b>Permitted Carry<br/>(Possession of a CWP)</b>          |

### **Montana Code Annotated For Firearms Laws**

*Reviewed For Changes January 10, 2026*

**Note:** *MT Gun Laws change every two years. As such, we recommend that you keep track of changes made.*

**45-3-110. No Duty To Summon Help Or Flee.** Except as provided in **45-3-105**, a person who is lawfully in a place or location and who is threatened with bodily injury or loss of life has no duty to retreat from a threat or summon law enforcement assistance prior to using force. The provisions of this section apply to a person offering evidence of justifiable use of force under **45-3-102**, **45-3-103**, or **45-3-104**.

Under this section of Montana State law, are you required to contact law enforcement before defending yourself?

YES or NO

**45-3-111. Openly Carrying Weapon - Display** (1) Any person who is not otherwise prohibited from doing so by federal or state law may openly carry a weapon and may communicate to another person the fact that the person has a weapon. (2) If a person reasonably believes that the person or another person is threatened with bodily harm, the person may warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon.

**49-1-101. Right Of Protection From Personal Injury.** Besides the personal rights mentioned or recognized in other statutes and subject to the qualifications and restrictions provided by law, every person has the right of protection from bodily restraint or harm, personal insult, defamation, and injury to the person's personal relations.

Under this section of Montana State law, can you use force to protect yourself from wrongful injury?

YES or NO

**49-1-103. Right To Use Force.** Any necessary force may be used to protect from wrongful injury the person or property of one's self, of a wife, husband, child, parent, or other relative or member of one's family, or of a ward, servant, master, or guest.

**45-3-101. Definitions. When Force is Justified**

(1) "Force likely to cause death or serious bodily harm" within the meaning of this chapter includes but is not limited to:

(a) the firing of a firearm in the direction of a person, even though no purpose exists to kill or inflict serious bodily harm; and

(b) the firing of a firearm at a vehicle in which a person is riding.

(2) "Forcible felony" means any felony which involves the use or threat of physical force or violence against any individual.

Under this section of Montana State Law, force likely to cause death or serious bodily harm only involves the use of firearms?

TRUE or FALSE

**45-3-102. Use Of Force In Defense Of Person.** A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the conduct is necessary for self-defense or the defense of another against the other person's imminent use of unlawful force. However, the person is justified in the use of force likely to cause death or serious bodily harm only if the person reasonably believes that the force is necessary to prevent imminent death or serious bodily harm to the person or another or to prevent the commission of a **forcible felony**.

Under this section of Montana State law, can you use force to defend yourself if you are in fear of imminent death or serious bodily harm?

YES or NO

**45-5-102. Deliberate Homicide.**

(1) A person commits the offense of deliberate homicide if:

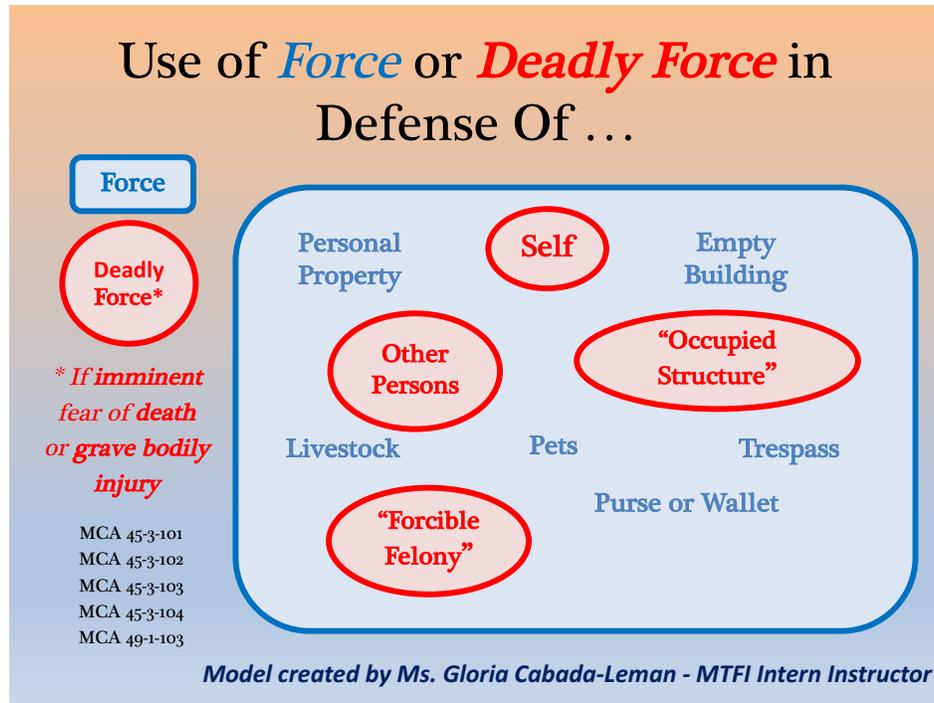
(a) the person purposely or knowingly causes the death of another human being;

(b) **the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, the person or any**

**person legally accountable for the crime causes the death of another human being; or**

(c) the person purposely or knowingly causes the death of a fetus of another with knowledge that the woman is pregnant.

(2) A person convicted of the offense of deliberate homicide shall be punished by death as provided in **46-18-301** through **46-18-310**, unless the person is less than 18 years of age at the time of the commission of the offense, by life imprisonment, or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years, except as provided in **46-18-219** and **46-18-222**.



## Legal Consideration Framework That Can Benefit You

- Innocence
- Imminence
- Reasonableness
- Proportionality
- Avoidance



### **45-3-103. Use Of Force In Defense Of Occupied Structure.**

(1) A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the use of force is necessary to prevent or terminate the other person's unlawful entry into or attack upon an occupied structure.

(2) A person justified in the use of force pursuant to subsection (1) is justified in the use of force likely to cause death or serious bodily harm **only if:**

(a) the entry is made or attempted and the person reasonably believes that the force is necessary to prevent an assault upon the person or another then in the occupied structure; or

(b) the person reasonably believes that the force is necessary to prevent the commission of a forcible felony in the occupied structure.

[Under this section of Montana State law, can you use force in defending an occupied structure?](#)

YES or NO

**45-3-104. Use Of Force In Defense Of Other Property.** A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the conduct is necessary 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 the person's possession or in the possession of another who is a member of the person's immediate family or household or of a person whose property the person has a legal duty to protect. However, the person is justified in the use of force likely to cause death or serious bodily harm only if the person reasonably believes that the force is necessary to prevent the commission of a forcible felony. [Under this section of Montana State law, can you use force in the defense of another's property?](#) YES or NO

**45-8-343. Firing Firearms.** (1) Except as provided in subsections (2) and (3), every person who willfully shoots or fires 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 is punishable by a fine not exceeding \$25 or such greater fine or a term of imprisonment, or both, as the town or city may impose.

(2) Firearms may be discharged at an indoor or outdoor rifle, pistol, or shotgun shooting range located within the limits of a town or city or in a private dwelling if the shooting range is approved by the local governing body.

(3) **Subsection (1) does not apply if the discharge of a firearm is justifiable under Title 45, chapter 3, part 1.**

**45-3-112. Investigation Of Alleged Offense Involving Claim Of Justifiable Use Of Force.** When an investigation is conducted by a peace officer of an incident that appears to have or is alleged to have involved justifiable use of force, the investigation must be conducted so as to disclose all evidence, including testimony

concerning the alleged offense and that might support the apparent or alleged justifiable use of force. **Note: (This is known as an Affirmative Defense)**

**45-8-316. Carrying Concealed Firearms - Exemption.** (1) A person who carries or bears concealed upon the individual's person a firearm 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 a firearm 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.

***(3) This section does not apply to a person eligible to possess a firearm under state or federal law.***

**45-8-327 Carrying Under The Influence.** A person commits the offense of carrying a concealed weapon while under the influence if the person purposely or knowingly carries a concealed weapon while under the influence of an intoxicating substance. 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 be fined an amount not to exceed \$500, or both.

**45-8-328. Carrying Concealed Weapon In Prohibited Place - Penalty.**

(1) Except for a ~~person~~ issued a permit pursuant to **45-8-321** or a person recognized pursuant to **45-8-329**, 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:

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

**45-8-351. Restriction On Local Government Regulation Of Firearms.**

**(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 **unpermitted** concealed weapons or the carrying of unconcealed weapons to a publicly owned and occupied building under its jurisdiction.

(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.

**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.

(4)(a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b)(i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

(ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.

(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.

Under this section of Montana State law, can anyone carry a concealed weapon at a school?

YES or NO

**Carrying A Concealed Firearm In a Vehicle**

The below information was downloaded from the Montana Attorney Generals Office under "**Frequently asked questions**"

**Question:** Can I carry a firearm in my vehicle even if I don't have a CWP?

**Attorney General's Answer:** *Yes. Montana law does not regulate how firearms are carried in a vehicle. If you are traveling interstate please contact the Federal Bureau of Alcohol, Tobacco and Firearms (ATF) and the state authorities in the other states you will be traveling in regarding any restrictions on interstate transport of weapons.*

**- End -**