

HANDGUN PURCHASE REQUIREMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

AN ACT RELATING TO CRIMINAL CODE; EXCLUDING PERSONS WITH A VALID CONCEALED FIREARM PERMIT FROM BACKGROUND CHECK AND FEE FOR HANDGUN PURCHASE; PROVIDING DEFINITION; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

76-10-526, as last amended by Chapter 285, Laws of Utah 1997

76-10-527, as enacted by Chapter 19, Laws of Utah 1994

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-10-526** is amended to read:

76-10-526. Criminal background check prior to purchase of a handgun.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued pursuant to Section 53-5-705.

~~[(1)]~~ (2) To establish personal identification and residence in this state for purposes of this part, a dealer shall require any person receiving a handgun to present:

(a) one photo identification on a form issued by a governmental agency of the state; and

(b) one other documentation of residence which must show an address identical to that shown on the photo identification form.

~~[(2)]~~ (3) A criminal history background check is required for the sale of a handgun by a licensed firearm dealer in the state.

~~[(3)]~~ (4) Any person purchasing a handgun from a dealer shall consent in writing to a criminal background check, on a form provided by the division. The form shall also contain the following information:

- 1 (a) the dealer identification number;
- 2 (b) the name and address of the person receiving the handgun;
- 3 (c) the date of birth, height, weight, eye color, and hair color of the person receiving the
- 4 handgun; and
- 5 (d) the Social Security number or any other identification number of the person receiving
- 6 the handgun.

7 ~~[(4)]~~ (5) (a) The dealer shall send the form required by Subsection ~~[(3)]~~(4) to the division

8 immediately upon its completion.

9 (b) No dealer shall sell or transfer any handgun to any person until the dealer has provided

10 the division with the information in Subsection ~~[(3)]~~(4) and has received approval from the

11 division under Subsection ~~[(5)]~~(6).

12 ~~[(5)]~~ (6) The dealer shall make a request for criminal history background information by

13 telephone to the division and shall receive approval or denial of the inquiry by telephone.

14 ~~[(6)]~~ (7) When the dealer calls for a criminal history background check, the division shall:

15 (a) review the criminal history files to determine if the person is prohibited from

16 purchasing, possessing, or transferring a handgun by state or federal law;

17 (b) inform the dealer that:

18 (i) the criminal record indicates the person is so prohibited; or

19 (ii) the person is approved for purchasing, possessing, or transferring a handgun;

20 (c) provide the dealer with a unique transaction number for that inquiry; and

21 (d) provide a response to the requesting dealer during the call for a criminal background,

22 or by return call without delay, except in case of electronic failure or other circumstances beyond

23 the control of the division, the division shall advise the dealer of the reason for such delay and give

24 the dealer an estimate of the length of such delay.

25 ~~[(7)]~~ (8) The division shall not maintain any records of the criminal history background

26 check longer than 20 days from the date of the dealer's request if the division determines that the

27 person receiving the gun is not prohibited from purchasing, possessing, or transferring the handgun

28 under state or federal law. However, the division shall maintain a log of requests containing the

29 dealer's federal firearms number, the transaction number, and the transaction date for a period of

30 12 months.

31 ~~[(8)]~~ (9) If the criminal history background check discloses information indicating that the

1 person receiving the handgun is prohibited from purchasing, possessing, or transferring a handgun,
2 the division shall inform the chief law enforcement officer in the jurisdiction where the person
3 resides.

4 ~~[(9)]~~ (10) If a person is denied the right to purchase a handgun under this section, the
5 person may review his criminal history information and may challenge or amend the information
6 as provided in Subsection 53-5-214(8).

7 ~~[(10)]~~ (11) The division shall make rules as provided in Title 63, Chapter 46a, Utah
8 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records
9 provided by the division pursuant to this part are in conformance with the requirements of the
10 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

11 ~~[(11)]~~ (12) (a) All dealers shall collect a fee established by the division in accordance with
12 Section 63-38-3.2 for every criminal history background check done pursuant to this part. Until
13 changed by the division through this process, the fee shall be \$7.50.

14 (b) The dealer shall forward at one time all fees collected for criminal history background
15 checks performed during the month to the division by the last day of the month following the sale
16 of a handgun. The division may retain the fees as dedicated credits to cover the cost of
17 administering and conducting the criminal history background check program.

18 (13) Any person purchasing a hand gun from a dealer who presents a valid permit to carry
19 a concealed firearm issued pursuant to Section 53-5-704 shall be exempt from the criminal history
20 background check requirement in Subsection (3) and the corresponding fee requirement in
21 Subsection (12).

22 Section 2. Section **76-10-527** is amended to read:

23 **76-10-527. Penalties.**

24 (1) A dealer is guilty of a class A misdemeanor who willfully and intentionally:

25 (a) requests, obtains, or seeks to obtain criminal history background information under
26 false pretenses; or

27 (b) disseminates criminal history background information.

28 (2) A person who purchases or transfers a handgun is guilty of a felony of the third degree
29 who willfully and intentionally makes a false statement of the information required for a criminal
30 background check in ~~[Subsection]~~ Section 76-10-526~~[(3)]~~.

31 (3) A dealer is guilty of a felony of the third degree if the dealer willfully and intentionally

1 sells or transfers a handgun in violation of this part.

2 (4) A person is guilty of a felony of the third degree who purchases a handgun with the
3 intent to:

4 (a) resell or otherwise provide a handgun to any person who is ineligible to purchase or
5 receive from a dealer a handgun; or

6 (b) transport a handgun out of this state to be resold to an ineligible person.

Legislative Review Note
as of 12-8-97 8:46 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel