

1                                   **LAW ENFORCEMENT OFFICER AMENDMENTS**

2   1999 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Michael R. Styler**

5 AN ACT RELATING TO PUBLIC SAFETY; PROVIDING A WAIVER OF SPECIFIC  
6 REQUIREMENTS FOR A CONCEALED FIREARM PERMIT UNDER CERTAIN  
7 CIRCUMSTANCES; WAIVING THE INITIAL APPLICATION FEE FOR A LAW  
8 ENFORCEMENT OFFICER TO OBTAIN A CONCEALED FIREARM PERMIT; AND  
9 MAKING TECHNICAL CORRECTIONS.

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

11 AMENDS:

12               **53-5-704**, as last amended by Chapters 13, 187 and 404, Laws of Utah 1998

13               **53-5-707**, as last amended by Chapter 115, Laws of Utah 1996

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

15               Section 1. Section **53-5-704** is amended to read:

16               **53-5-704. Division duties -- Permit to carry concealed firearm -- Requirements for**  
17 **issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.**

18               (1) The division or its designated agent shall issue a permit to carry a concealed firearm  
19 for lawful self defense to an applicant who is 21 years of age or older within 60 days after  
20 receiving an application and upon proof that the person applying is of good character. The permit  
21 is valid throughout the state, without restriction except as provided by Section 53-5-710:

22               (a) for two years; or

23               (b) for five years for permits issued or renewed on or after May 1, 1998.

24               (2) An applicant satisfactorily demonstrates good character if he:

25               (a) has not been convicted of a felony;

26               (b) has not been convicted of any crime of violence;

27               (c) has not been convicted of any offenses involving the use of alcohol;

28 (d) has not been convicted of any offense involving the unlawful use of narcotics or other  
29 controlled substances;

30 (e) has not been convicted of any offenses involving moral turpitude;

31 (f) has not been convicted of any offense involving domestic violence;

32 (g) has not been adjudicated by a court of a state or of the United States as mentally  
33 incompetent, unless the adjudication has been withdrawn or reversed; and

34 (h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to  
35 Section 76-10-503 and federal law.

36 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if the  
37 licensing authority has reasonable cause to believe that the applicant has been or is a danger to self  
38 or others as demonstrated by evidence including, but not limited to:

39 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

40 (ii) past participation in incidents involving unlawful violence or threats of unlawful  
41 violence; or

42 (iii) conviction of any offense in violation of Title 76, Chapter 10, Part 5, Weapons.

43 (b) In determining whether the applicant has been or is a danger to self or others, the  
44 division may inspect:

45 (i) expunged records of arrests and convictions of adults as provided in Section 77-18-15;  
46 and

47 (ii) juvenile court records as provided in Section 78-3a-206.

48 (c) (i) If a person granted a permit under this part has been charged with a crime of  
49 violence in Utah or any other state, the division shall suspend the permit.

50 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having been  
51 dropped, the division shall immediately reinstate the suspended permit.

52 (4) A former peace officer who departs full-time employment as a peace officer, in an  
53 honorable manner, shall be issued a concealed firearm permit within five years of that departure  
54 if the officer meets the requirements of this section.

55 (5) In assessing good character under Subsection (2), the licensing authority shall consider  
56 mitigating circumstances.

57 (6) [The] Except as provided in Subsection (7), the licensing authority shall also require  
58 the applicant to provide:

- 59 (a) letters of character reference;
- 60 (b) two recent dated photographs;
- 61 (c) two sets of fingerprints;
- 62 (d) a five-year employment history;
- 63 (e) a five-year residential history; and
- 64 (f) evidence of general familiarity with the types of firearms to be concealed as defined in
- 65 Subsection ~~(7)~~ (8).

66 (7) An applicant who is a law enforcement officer under Section 53-13-103 may provide  
67 a letter of good standing from the officer's commanding officer in place of the items required by  
68 Subsections (6)(a), (d), (e), and (f).

69 ~~(7)~~ (8) (a) General familiarity with the types of firearms to be concealed includes training  
70 in:

- 71 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
- 72 concealed; and
- 73 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
- 74 self-defense, use of deadly force, transportation, and concealment.

75 (b) Evidence of general familiarity with the types of firearms to be concealed may be  
76 satisfied by one of the following:

- 77 (i) completion of a course of instruction conducted by any national, state, or local firearms
- 78 training organization approved by the division;
- 79 (ii) certification of general familiarity by a person who has been approved by the division,
- 80 which may include a law enforcement officer, military or civilian firearms instructor, or hunter
- 81 safety instructor; or
- 82 (iii) equivalent experience with a firearm through participation in an organized shooting
- 83 competition, law enforcement, or military service.

84 ~~(8)~~ (9) In issuing a permit under this part, the licensing authority is not vicariously liable  
85 for damages caused by the permit holder.

86 ~~(9)~~ (10) If any person knowingly and willfully provides false information on an  
87 application filed under this part, he is guilty of a class B misdemeanor, and his application may be  
88 denied, or his permit may be suspended or revoked.

89 ~~(10)~~ (11) (a) In the event of a denial, suspension, or revocation by the agency, the

90 applicant may file a petition for review with the board within 60 days from the date the denial,  
91 suspension, or revocation is received by the applicant by certified mail, return receipt requested.

92 (b) The denial of a permit shall be in writing and shall include the general reasons for the  
93 action.

94 (c) If an applicant appeals his denial to the review board, the applicant may have access  
95 to the evidence upon which the denial is based in accordance with Title 63, Chapter 2, Government  
96 Records Access and Management Act.

97 (d) On appeal to the board, the agency shall have the burden of proof by a preponderance  
98 of the evidence.

99 (e) Upon a ruling by the board on the appeal of a denial, the division shall issue a final  
100 order within 30 days stating the board's decision. The final order shall be in the form prescribed  
101 by Subsection 63-46b-5(1)(i). The final order is final agency action for purposes of judicial review  
102 under Section 63-46b-15.

103 [~~(H)~~] (12) The commissioner may make rules in accordance with Title 63, Chapter 46a,  
104 Utah Administrative Rulemaking Act, necessary to administer this chapter.

105 Section 2. Section **53-5-707** is amended to read:

106 **53-5-707. Permit -- Fee -- Disposition.**

107 (1) Each applicant for a permit shall pay a fee of \$35 at the time of filing his application.  
108 The initial fee shall be waived for an applicant who is a law enforcement officer under Section  
109 53-13-103.

110 (2) The renewal fee for the permit is \$5.

111 (3) All fees shall promptly be deposited in the state treasury and credited to the General  
112 Fund.

113 (4) The division may collect any fees charged by an outside agency for additional services  
114 required by statute as a prerequisite for issuance of a permit. The division shall promptly forward  
115 any fees collected to the appropriate agency.

---

---

**Legislative Review Note**

**as of 1-28-99 12:44 PM**

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

**Office of Legislative Research and General Counsel**