



28 (iii) any juvenile detention facility; and  
29 (iv) any building or grounds appurtenant to the facility or lands granted to the state,  
30 municipality, or county for use as a correctional facility.

31 (d) "Medicine" means any prescription drug as defined in Title 58, Chapter 17a, Pharmacy  
32 Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37,  
33 Utah Controlled Substances Act.

34 (e) "Mental health facility" has the same meaning as defined in Section 62A-12-202.

35 (f) "Offender" means a person in custody at a correctional facility.

36 (g) "Secure area" has the same meaning as provided in Section 76-8-311.1.

37 (2) Notwithstanding [~~any other statute to the contrary, including Subsection 76-10-501(b)]~~  
38 Section 76-10-500, a correctional or mental health facility may provide by rule that no firearm,  
39 ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous  
40 or fermented liquor, medicine, or poison in any quantity may be:

41 (a) transported to or upon a correctional or mental health facility;

42 (b) sold or given away at any correctional or mental health facility;

43 (c) given to or used by any offender at a correctional or mental health facility; or

44 (d) knowingly or intentionally possessed at a correctional or mental health facility.

45 (3) It is a defense to any prosecution under this section if the accused in committing the  
46 act made criminal by this section:

47 (a) with respect to a correctional facility operated by the Department of Corrections, acted  
48 in conformity with departmental rule or policy;

49 (b) with respect to a correctional facility operated by a municipality, acted in conformity  
50 with the policy of the municipality;

51 (c) with respect to a correctional facility operated by a county, acted in conformity with  
52 the policy of the county; or

53 (d) with respect to a mental health facility, acted in conformity with the policy of the  
54 mental health facility.

55 (4) (a) Any person who transports to or upon a correctional facility, or into a secure area  
56 of a mental health facility, any firearm, ammunition, dangerous weapon, explosive, or implement  
57 of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

58 (b) Any person who provides or sells to any offender at a correctional facility, or any

59 detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon,  
60 explosive, or implement of escape is guilty of a second degree felony.

61 (c) Any offender who possesses at a correctional facility, or any detainee who possesses  
62 at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, explosive,  
63 or implement of escape is guilty of a second degree felony.

64 (d) Any person who, without the permission of the authority operating the correctional  
65 facility or the secure area of a mental health facility, knowingly possesses at a correctional facility  
66 or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, implement  
67 of escape, or explosive is guilty of a third degree felony.

68 (5) (a) A person is guilty of a third degree felony who, without the permission of the  
69 authority operating the correctional facility or secure area of a mental health facility, knowingly  
70 transports to or upon a correctional facility or into a secure area of a mental health facility any:

- 71 (i) spirituous or fermented liquor;
- 72 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 73 (iii) poison in any quantity.

74 (b) A person is guilty of a third degree felony who knowingly violates correctional or  
75 mental health facility policy or rule by providing or selling to any offender at a correctional facility  
76 or detainee within a secure area of a mental health facility any:

- 77 (i) spirituous or fermented liquor;
- 78 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 79 (iii) poison in any quantity.

80 (c) An inmate is guilty of a third degree felony who, in violation of correctional or mental  
81 health facility policy or rule, possesses at a correctional facility or in a secure area of a mental  
82 health facility any:

- 83 (i) spirituous or fermented liquor;
- 84 (ii) medicine, other than medicine provided by the facility's health care providers in  
85 compliance with facility policy; or
- 86 (iii) poison in any quantity.

87 (d) A person is guilty of a class A misdemeanor who, without the permission of the  
88 authority operating the correctional or mental health facility, fails to declare or knowingly  
89 possesses at a correctional facility or in a secure area of a mental health facility any:

- 90 (i) spirituous or fermented liquor;
- 91 (ii) medicine; or
- 92 (iii) poison in any quantity.

93 (e) A person is guilty of a class B misdemeanor who, without the permission of the  
 94 authority operating the facility, knowingly engages in any activity that would facilitate the  
 95 possession of any contraband by an offender in a correctional facility.

96 (f) Exemptions may be granted for worship for Native American inmates pursuant to  
 97 Section 64-13-40.

98 (6) The possession, distribution, or use of a controlled substance at a correctional facility  
 99 or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58,  
 100 Chapter 37, Utah Controlled Substances Act.

101 Section 2. Section **76-10-500** is enacted to read:

102 **76-10-500. Uniform law.**

103 (1) The individual right to keep and bear arms being a constitutionally protected right, the  
 104 Legislature finds the need to provide uniform laws throughout the state. Except as specifically  
 105 provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

106 (a) prohibited from owning, possessing, purchasing, transporting, or keeping any firearm  
 107 at his place of residence, property, business, or in any vehicle under his control; or

108 (b) required to have a permit or license to purchase, own, possess, transport, or keep a  
 109 firearm.

110 (2) This part is uniformly applicable throughout this state and in all its political  
 111 subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state  
 112 except where the Legislature specifically delegates responsibility to local authorities. Unless  
 113 specifically authorized by the Legislature by statute, a local authority may not enact or enforce any  
 114 ordinance, regulation, or rule pertaining to firearms.

115 Section 3. Section **76-10-501** is amended to read:

116 **76-10-501. Uniform law -- Definitions.**

117 ~~[(1) (a) The individual right to keep and bear arms being a constitutionally protected right,~~  
 118 ~~the Legislature finds the need to provide uniform laws throughout the state. Except as specifically~~  
 119 ~~provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:]~~

120 ~~[(i) prohibited from owning, possessing, purchasing, transporting, or keeping any firearm~~

121 at his place of residence, property, business, or in any vehicle under his control; or]

122 [(ii) required to have a permit or license to purchase, own, possess, transport, or keep a  
123 firearm.]

124 [(b) This part is uniformly applicable throughout this state and in all its political  
125 subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state  
126 except where the Legislature specifically delegates responsibility to local authorities. Unless  
127 specifically authorized by the Legislature by statute, a local authority may not enact or enforce any  
128 ordinance, regulation, or rule pertaining to firearms.]

129 [(2)] As used in this part:

130 [(a)(i)] (1) (a) "Concealed dangerous weapon" means a dangerous weapon that is covered,  
131 hidden, or secreted in a manner that the public would not be aware of its presence and is readily  
132 accessible for immediate use.

133 [(ii)] (b) A dangerous weapon shall not be considered a concealed dangerous weapon if it  
134 is a firearm which is unloaded and is securely encased.

135 [(b)] (2) "Crime of violence" means aggravated murder, murder, manslaughter, rape,  
136 mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by  
137 threats of violence, assault with a dangerous weapon, assault with intent to commit any offense  
138 punishable by imprisonment for more than one year, arson punishable by imprisonment for more  
139 than one year, or an attempt to commit any of these offenses.

140 [(c)] (3) "Criminal history background check" means a criminal background check  
141 conducted by a licensed firearms dealer on every purchaser of a handgun through the division or  
142 the local law enforcement agency where the firearms dealer conducts business.

143 [(d)] (4) "Dangerous weapon" means any item that in the manner of its use or intended use  
144 is capable of causing death or serious bodily injury. The following factors shall be used in  
145 determining whether a knife, or any other item, object, or thing not commonly known as a  
146 dangerous weapon is a dangerous weapon:

147 [(i)] (a) the character of the instrument, object, or thing;

148 [(ii)] (b) the character of the wound produced, if any;

149 [(iii)] (c) the manner in which the instrument, object, or thing was used; and

150 [(iv)] (d) the other lawful purposes for which the instrument, object, or thing may be used.

151 [(e)] (5) "Dealer" means every person who is licensed under crimes and criminal

152 procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring  
153 a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

154        [(f)] (6) "Division" means the Criminal Investigations and Technical Services Division of  
155 the Department of Public Safety, created in Section 53-10-103.

156        [(g)] (7) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or  
157 sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled  
158 a projectile by action of an explosive.

159        [(h)] (8) "Fully automatic weapon" means any firearm which fires, is designed to fire, or  
160 can be readily restored to fire, automatically more than one shot without manual reloading by a  
161 single function of the trigger.

162        [(i)] (9) "Firearms transaction record form" means a form created by the division to be  
163 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

164        [(j)] (10) "Handgun" means a pistol, revolver, or other firearm of any description, loaded  
165 or unloaded, from which any shot, bullet, or other missile can be discharged, the length of which,  
166 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

167        [(k)] (11) "Prohibited area" means any place where it is unlawful to discharge a firearm.

168        [(l)] (12) "Readily accessible for immediate use" means that a firearm or other dangerous  
169 weapon is carried on the person or within such close proximity and in such a manner that it can  
170 be retrieved and used as readily as if carried on the person.

171        [(m)] (13) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or  
172 barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer  
173 than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration,  
174 modification, or otherwise, if the weapon as modified has an overall length of fewer than 26  
175 inches.

176        [(n)] (14) "Securely encased" means not readily accessible for immediate use, such as held  
177 in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage  
178 area of a motor vehicle, not including a glove box or console box.

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**Legislative Review Note**

**as of 1-13-99 11:31 AM**

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

**Office of Legislative Research and General Counsel**