

1 **RESIDENCY REQUIREMENT FOR CONCEALED**

2 **FIREARM PERMIT**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gary F. Cox**

6 AN ACT RELATING TO PUBLIC SAFETY; REQUIRING AN APPLICANT FOR A
7 CONCEALED FIREARM PERMIT TO BE A LEGAL RESIDENT OF THIS STATE; AND
8 MAKING CONFORMING AMENDMENTS.

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

10 AMENDS:

11 **53-5-704**, as last amended by Chapters 120 and 366, Laws of Utah 1999

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

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

14 **53-5-704. Division duties -- Permit to carry concealed firearm -- Requirements for**
15 **issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.**

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

21 (a) for two years; or

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

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

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

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

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

27 (d) has not been convicted of any offense involving the unlawful use of narcotics or other

28 controlled substances;

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

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

31 (g) has not been adjudicated by a court of a state or of the United States as mentally

32 incompetent, unless the adjudication has been withdrawn or reversed; and

33 (h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to

34 Section 76-10-503 and federal law.

35 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if the

36 licensing authority has reasonable cause to believe that the applicant has been or is a danger to self

37 or others as demonstrated by evidence including, but not limited to:

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

39 (ii) past participation in incidents involving unlawful violence or threats of unlawful

40 violence; or

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

42 (b) The division may not deny, suspend, or revoke a concealed firearm permit solely for

43 a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

44 (c) In determining whether the applicant has been or is a danger to self or others, the

45 division may inspect:

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

47 and

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

49 (d) (i) If a person granted a permit under this part has been charged with a crime of

50 violence in Utah or any other state, the division shall suspend the permit.

51 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having been

52 dropped, the division shall immediately reinstate the suspended permit.

53 (4) A former peace officer who departs full-time employment as a peace officer, in an

54 honorable manner, shall be issued a concealed firearm permit within five years of that departure

55 if the officer meets the requirements of this section.

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

57 mitigating circumstances.

58 (6) Except as provided in Subsection (7), the licensing authority shall also require the

59 applicant to provide:

60 (a) address of residence within this state;

61 [~~(a)~~] (b) letters of character reference;

62 [~~(b)~~] (c) two recent dated photographs;

63 [~~(c)~~] (d) two sets of fingerprints;

64 [~~(d)~~] (e) a five-year employment history;

65 [~~(e)~~] (f) a five-year residential history; and

66 [~~(f)~~] (g) evidence of general familiarity with the types of firearms to be concealed as

67 defined in Subsection (8).

68 (7) An applicant who is a law enforcement officer under Section 53-13-103 may provide

69 a letter of good standing from the officer's commanding officer in place of the items required by

70 Subsections (6)[~~(a)~~,~~(d)~~](b), (e), [~~and~~] (f), and (g).

71 (8) (a) General familiarity with the types of firearms to be concealed includes training in:

72 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be

73 concealed; and

74 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful

75 self-defense, use of deadly force, transportation, and concealment.

76 (b) Evidence of general familiarity with the types of firearms to be concealed may be

77 satisfied by one of the following:

78 (i) completion of a course of instruction conducted by any national, state, or local firearms

79 training organization approved by the division;

80 (ii) certification of general familiarity by a person who has been approved by the division,

81 which may include a law enforcement officer, military or civilian firearms instructor, or hunter

82 safety instructor; or

83 (iii) equivalent experience with a firearm through participation in an organized shooting

84 competition, law enforcement, or military service.

85 (9) In issuing a permit under this part, the licensing authority is not vicariously liable for

86 damages caused by the permit holder.

87 (10) If any person knowingly and willfully provides false information on an application

88 filed under this part, he is guilty of a class B misdemeanor, and his application may be denied, or

89 his permit may be suspended or revoked.

90 (11) (a) In the event of a denial, suspension, or revocation by the agency, the applicant may
91 file a petition for review with the board within 60 days from the date the denial, suspension, or
92 revocation is received by the applicant by certified mail, return receipt requested.

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

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

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

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

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

Legislative Review Note

as of 2-2-00 9:01 AM

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

Office of Legislative Research and General Counsel