

Senator Michael G. Waddoups proposes to substitute the following bill:

1 **AMENDING REQUIREMENTS FOR CONCEALED FIREARMS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gary F. Cox**

5 AN ACT RELATING TO PUBLIC SAFETY; AMENDING REQUIREMENTS FOR A
6 CONCEALED FIREARM PERMIT AND FOR INSTRUCTOR CERTIFICATION; AND
7 MAKING CONFORMING AMENDMENTS.

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

9 AMENDS:

10 **53-5-704**, as last amended by Chapters 120 and 366, Laws of Utah 1999

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

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

13 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**
14 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension,**
15 **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 within 60 days after
18 receiving an application and upon proof that the person applying is of good character. The permit
19 is valid throughout the state, without restriction except as provided by Section 53-5-710:

20 (a) for two years; or

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

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

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

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

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

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

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

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

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31 incompetent, unless the adjudication has been withdrawn or reversed; and

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

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

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

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

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

41 (b) The division may not deny, suspend, or revoke a concealed firearm permit solely for
42 a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

43 (c) 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 (d) (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) Except as provided in Subsection (7), the licensing authority shall also require the
58 applicant to provide:

59 (a) address of applicant's permanent residence;

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

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

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

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

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

65 [~~(f)~~] (g) evidence of general familiarity with the types of firearms to be concealed as
66 defined in Subsection (8).

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

70 (8) (a) General familiarity with the types of firearms to be concealed includes training 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 force by a private citizen including use of deadly force, transportation, and
75 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~~] certified by
81 the division, which may include a law enforcement officer, military or civilian firearms instructor,
82 or hunter 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) An applicant for certification as a Utah concealed firearms instructor shall:

86 (a) be at least 21 years of age; and

87 (b) be currently eligible to possess a firearm under Section 76-10-503 and federal law.

88 (10) Each certified concealed firearms instructor shall provide for his students the required
89 course of instruction outline approved by the division.

90 (11) All concealed firearms instructors are required to provide a signed certificate to
91 persons completing the course of instruction, which certificate shall be provided by the applicant
92 to the division.

93 (12) The division may deny, suspend, or revoke the certification of a concealed firearms
94 instructor if the licensing authority has reason to believe the applicant has:

95 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

96 (b) knowingly and willfully provided false information to the division.

97 (13) A concealed firearms instructor has the same appeal rights as set forth in Subsection
98 (16).

99 ~~[(9)]~~ (14) In issuing a permit under this part, the licensing authority is not vicariously liable
100 for damages caused by the permit holder.

101 ~~[(10)]~~ (15) If any person knowingly and willfully provides false information on an
102 application filed under this part, he is guilty of a class B misdemeanor, and his application may be
103 denied, or his permit may be suspended or revoked.

104 ~~[(11)]~~ (16) (a) In the event of a denial, suspension, or revocation by the agency, the
105 applicant may file a petition for review with the board within 60 days from the date the denial,
106 suspension, or revocation is received by the applicant by certified mail, return receipt requested.

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

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

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

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

118 ~~[(12)]~~ (17) The commissioner may make rules in accordance with Title 63, Chapter 46a,

119 Utah Administrative Rulemaking Act, necessary to administer this chapter.