

1 **REVOCAION OF CONCEALED FIREARM**

2 **PERMITS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Melvin R. Brown**

6 AN ACT RELATING TO PUBLIC SAFETY; MOVING EXISTING PROVISIONS
7 REGARDING PERMIT DENIAL, SUSPENSION, OR REVOCATION INTO ITS OWN
8 SECTION; PROVIDING THAT THE DIVISION OF CRIMINAL INVESTIGATIONS AND
9 TECHNICAL SERVICES REVOKE A CONCEALED FIREARM PERMIT IN CERTAIN
10 INSTANCES; MODIFYING CRIME AND PENALTIES FOR EXHIBITING, DISPLAYING, OR
11 SHOWING A DANGEROUS WEAPON; AND MAKING TECHNICAL CHANGES.

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

13 AMENDS:

14 **53-5-704**, as last amended by Chapters 120 and 366, Laws of Utah 1999

15 **76-10-506**, as last amended by Chapter 101, Laws of Utah 1992

16 ENACTS:

17 **53-5-704.5**, Utah Code Annotated 1953

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

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

20 **53-5-704. Division duties -- Permit to carry concealed firearm -- Requirements for**
21 **issuance.**

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

26 (a) for two years; or

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

- 28 (2) An applicant satisfactorily demonstrates good character if he:
29 (a) has not been convicted of a felony;
30 (b) has not been convicted of any crime of violence;
31 (c) has not been convicted of any offenses involving the use of alcohol;
32 (d) has not been convicted of any offense involving the unlawful use of narcotics or other
33 controlled substances;
34 (e) has not been convicted of any offenses involving moral turpitude;
35 (f) has not been convicted of any offense involving domestic violence;
36 (g) has not been adjudicated by a court of a state or of the United States as mentally
37 incompetent, unless the adjudication has been withdrawn or reversed; and
38 (h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to
39 Section 76-10-503 and federal law.

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

43 ~~[(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;]~~

44 ~~[(ii) past participation in incidents involving unlawful violence or threats of unlawful~~
45 ~~violence; or]~~

46 ~~[(iii) conviction of any offense in violation of Title 76, Chapter 10, Part 5, Weapons.]~~

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

49 ~~[(c) In determining whether the applicant has been or is a danger to self or others, the~~
50 ~~division may inspect:]~~

51 ~~[(i) expunged records of arrests and convictions of adults as provided in Section 77-18-15;~~
52 ~~and]~~

53 ~~[(ii) juvenile court records as provided in Section 78-3a-206.]~~

54 ~~[(d) (i) If a person granted a permit under this part has been charged with a crime of~~
55 ~~violence in Utah or any other state, the division shall suspend the permit.]~~

56 ~~[(ii) Upon notice of the acquittal of the person charged, or notice of the charges having~~
57 ~~been dropped, the division shall immediately reinstate the suspended permit.]~~

58 ~~[(4)] (3) A former peace officer who departs full-time employment as a peace officer, in~~

59 an honorable manner, shall be issued a concealed firearm permit within five years of that departure
60 if the officer meets the requirements of this section.

61 [~~(5)~~] (4) In assessing good character under Subsection (2), the licensing authority shall
62 consider mitigating circumstances.

63 [~~(6)~~] (5) Except as provided in Subsection [~~(7)~~] (6), the licensing authority shall also
64 require the applicant to provide:

65 (a) letters of character reference;

66 (b) two recent dated photographs;

67 (c) two sets of fingerprints;

68 (d) a five-year employment history;

69 (e) a five-year residential history; and

70 (f) evidence of general familiarity with the types of firearms to be concealed as defined in
71 Subsection [~~(8)~~] (7).

72 [~~(7)~~] (6) An applicant who is a law enforcement officer under Section 53-13-103 may
73 provide a letter of good standing from the officer's commanding officer in place of the items
74 required by Subsections [~~(6)~~] (5)(a), (d), (e), and (f).

75 [~~(8)~~] (7) (a) General familiarity with the types of firearms to be concealed includes training
76 in:

77 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
78 concealed; and

79 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
80 self-defense, use of deadly force, transportation, and concealment.

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

83 (i) completion of a course of instruction conducted by any national, state, or local firearms
84 training organization approved by the division;

85 (ii) certification of general familiarity by a person who has been approved by the division,
86 which may include a law enforcement officer, military or civilian firearms instructor, or hunter
87 safety instructor; or

88 (iii) equivalent experience with a firearm through participation in an organized shooting
89 competition, law enforcement, or military service.

90 ~~[(9)]~~ (8) In issuing a permit under this part, the licensing authority is not vicariously liable
91 for damages caused by the permit holder.

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

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

98 ~~[(b) The denial of a permit shall be in writing and shall include the general reasons for the
99 action.]~~

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

103 ~~[(d) On appeal to the board, the agency shall have the burden of proof by a preponderance
104 of the evidence.]~~

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

109 ~~[(12)]~~ (9) The commissioner may make rules in accordance with Title 63, Chapter 46a,
110 Utah Administrative Rulemaking Act, necessary to administer this chapter.

111 Section 2. Section **53-5-704.5** is enacted to read:

112 **53-5-704.5. Permit denial, suspension, or revocation -- Appeal procedure.**

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

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

117 (ii) past participation in incidents involving unlawful violence or threats of unlawful
118 violence; or

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

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

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

122 (c) In determining whether the applicant has been or is a danger to self or others, the
123 division may inspect:

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

125 and

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

127 (2) If any person knowingly and willfully provides false information on an application
128 filed under this part, he is guilty of a class B misdemeanor, and his application may be denied, or
129 his permit may be suspended or revoked.

130 (3) The division shall revoke the permit of any person licensed to carry a concealed firearm
131 under this part who is convicted of violating Section 76-10-506.

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

134 (b) Upon notice of the acquittal of the person charged, or notice of the charges having been
135 dropped, the division shall immediately reinstate the suspended permit.

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

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

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

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

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

150 Section 3. Section **76-10-506** is amended to read:

151 **76-10-506. Exhibiting, displaying, or showing a dangerous weapon or using a**

152 **dangerous weapon in fight or quarrel -- Penalties.**

153 ~~[Every]~~ A person, except [those persons described in] a person restricted by Section
154 76-10-503, who, not in necessary self defense in the presence of two or more persons, [draws or
155 exhibits] wilfully and wantonly exhibits, displays, or shows any dangerous weapon ~~[in an angry~~
156 ~~and threatening manner]~~ or unlawfully uses the ~~[same]~~ dangerous weapon in any fight or quarrel
157 is guilty of:

158 (1) a class A misdemeanor[-]; or

159 (2) a class B misdemeanor for a person licensed to carry a concealed firearm pursuant to
160 Title 53, Chapter 5, Part 7, Concealed Weapon Act, if the dangerous weapon is a firearm and:

161 (a) upon a first conviction, the division shall revoke the permit to carry a concealed firearm
162 for one year; and

163 (b) upon a subsequent conviction, the division shall revoke the permit to carry a concealed
164 firearm permanently.

Legislative Review Note
as of 2-1-00 11:23 AM

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

Office of Legislative Research and General Counsel