

**BACKGROUND CHECK ON PRIVATE HANDGUN**

**TRANSFERS**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Millie M. Peterson**

AN ACT RELATING TO CRIMINAL CODE; REQUIRING A CRIMINAL BACKGROUND CHECK BE PERFORMED FOR PRIVATE HANDGUN SALES; PROVIDING MECHANISM FOR BACKGROUND CHECKS TO BE PERFORMED BY LICENSED FIREARM DEALERS, CITY POLICE CHIEFS, OR COUNTY SHERIFFS; AUTHORIZING COUNTY SHERIFFS AND CITY POLICE CHIEFS TO ISSUE A PERMIT TO PURCHASE OR RECEIVE A HANDGUN; PRESCRIBING FORM OF PERMIT; AUTHORIZING FEES TO BE COLLECTED; AND PROVIDING A DEFENSE AND PENALTIES.

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

ENACTS:

**76-10-526.1**, Utah Code Annotated 1953

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

Section 1. Section **76-10-526.1** is enacted to read:

**76-10-526.1. Private sale, purchase, or transfer of a handgun criminal background check -- Permit to purchase or receive -- Fee -- Defense -- Penalties.**

(1) For purposes of this section, a county sheriff or city police chief is authorized to perform a criminal background check on any person desiring to purchase or receive a handgun so long as the background check is made by the county sheriff or city police chief as if he were a licensed firearm dealer in accordance with Section 76-10-526.

(2) (a) A county sheriff or city police chief of this state may issue to any person upon request a permit to purchase or receive a handgun after performing a criminal background check on the person pursuant to Subsection (1).

(b) The permit shall expire ten days from the date of issuance and shall be in the following

28 form:

29 State of Utah, \_\_\_\_\_ [County or City].

30 I, \_\_\_\_\_, [Sheriff or Police Chief] of \_\_\_\_\_ [County or City], certify that

31 I have conducted a criminal background check of the applicant \_\_\_\_\_, whose

32 place of residence is \_\_\_\_\_, \_\_\_\_\_ County, Utah, and

33 have received no information to indicate that it would be a violation of state or federal law for the

34 applicant to purchase, receive, or possess the handgun. Therefore, a permit is issued to

35 \_\_\_\_\_ to purchase or receive a handgun from any person who may lawfully dispose

36 of the handgun.

37 This permit expires ten (10) days from its issuance.

38 Signed: \_\_\_\_\_, \_\_\_\_\_ [County Sheriff or City Police Chief]

39 Date of issuance: \_\_\_\_\_

40 (3) A person may purchase or receive a handgun from a seller or transferor who is not a  
41 licensed firearm dealer in the state only if:

42 (a) the person obtains a permit to purchase or receive a handgun from a county sheriff or  
43 city police chief pursuant to Subsection (2) prior to purchasing or receiving the handgun which the  
44 person then shows, with a valid state driver's license or state identification card issued by the state,  
45 to the seller or transferor; or

46 (b) the seller or transferor delivers the handgun to a licensed firearm dealer, county sheriff,  
47 or city police chief who performs the criminal background check pursuant to Section 76-10-526  
48 prior to transferring the handgun to the purchaser or receiver.

49 (4) The purchaser or transferee shall pay to the licensed firearm dealer, county sheriff, or  
50 city police chief:

51 (a) the fee required by Section 76-10-526; and

52 (b) an additional fee for processing set by the licensed firearm dealer, county sheriff, or  
53 city police chief which may not exceed the amount of the fee in Section 76-10-526.

54 (5) To defray the costs of administering the program, the fee collected in Subsection (4)(b):

55 (a) by a county sheriff shall be deposited with the county treasurer; and

56 (b) by a city police chief shall be deposited with the city treasurer.

57 (6) Compliance with the provisions of this section shall be a defense to any criminal  
58 complaint arising under the laws of this state or other claim or cause of action under this chapter

59 arising from the sale or transfer of a handgun.

60 (7) Except as provided in Subsection (8), a person who is not a licensed firearm dealer who  
61 sells, transfers, purchases, or receives a handgun in violation of this section, or who alters the  
62 permit to purchase or receive a handgun is guilty of:

63 (a) a class A misdemeanor if it is willful or intentional; or

64 (b) a class B misdemeanor.

65 (8) If a higher penalty than is prescribed in Subsection (7) is provided in another section  
66 of the code for one who sells, transfers, purchases, or receives a handgun, the penalties of that  
67 section control.

---

---

**Legislative Review Note**

**as of 1-19-00 12:53 PM**

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

**Office of Legislative Research and General Counsel**