

**CONCEALED WEAPON PERMIT HOLDERS -
RECIPROCITY**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Glenn A. Donnelson

This act modifies provisions related to concealed carry permit holders. The act modifies provisions allowing a person authorized to carry a concealed firearm in another state to carry a concealed firearm in this state and requires the division to maintain a public database of states granting reciprocity.

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

AMENDS:

53-5-704, as last amended by Chapter 107, Laws of Utah 2000

76-10-523, as last amended by Chapters 57 and 144, Laws of Utah 1997

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

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

53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

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

(a) for two years; or

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

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

(a) has not been convicted of a felony;

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



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

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

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

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

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34 incompetent, unless the adjudication has been withdrawn or reversed; and

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

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

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

41 (ii) past participation in incidents involving unlawful violence or threats of unlawful
42 violence; or

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

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

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

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

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

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

53 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having been
54 dropped, the division shall immediately reinstate the suspended permit.

55 (4) A former peace officer who departs full-time employment as a peace officer, in an
56 honorable manner, shall be issued a concealed firearm permit within five years of that departure
57 if the officer meets the requirements of this section.

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

59 mitigating circumstances.

60 (6) Except as provided in Subsection (7), the licensing authority shall also require the
61 applicant to provide:

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

63 (b) letters of character reference;

64 (c) two recent dated photographs;

65 (d) two sets of fingerprints;

66 (e) a five-year employment history;

67 (f) a five-year residential history; and

68 (g) evidence of general familiarity with the types of firearms to be concealed as defined
69 in Subsection (8).

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

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

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

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

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

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

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

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

88 (9) An applicant for certification as a Utah concealed firearms instructor shall:

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

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

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

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

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

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

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

100 (13) A concealed firearms instructor has the same appeal rights as set forth in Subsection
101 (16).

102 (14) In issuing a permit under this part, the licensing authority is not vicariously liable for
103 damages caused by the permit holder.

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

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

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

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

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

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

121 (17) (a) The division, at least annually, shall:
 122 (i) contact each state that issues concealed weapon permits that does not grant reciprocity
 123 for Utah concealed weapon permits; and

124 (ii) formally request that Utah permits be granted reciprocity by that state.

125 (b) The division shall:

126 (i) keep and maintain a list of states that grant reciprocity for Utah concealed weapon
 127 permit holders;

128 (ii) make the list available to the public upon request; and

129 (iii) post the information on the division's web site.

130 ~~[(17)]~~ (18) The commissioner may make rules in accordance with Title 63, Chapter 46a,
 131 Utah Administrative Rulemaking Act, necessary to administer this chapter.

132 Section 2. Section **76-10-523** is amended to read:

133 **76-10-523. Persons exempt from weapons laws.**

134 (1) This part and Title 53, Chapter 5, Part 7, Concealed Weapon Act, do not apply to any
 135 of the following:

136 (a) a United States marshal while engaged in the performance of his official duties;

137 (b) a federal official required to carry a firearm while engaged in the performance of his
 138 official duties;

139 (c) a peace officer of this or any other jurisdiction while engaged in the performance of his
 140 official duties;

141 (d) a law enforcement official as defined and qualified under Section 53-5-711;

142 (e) a judge as defined and qualified in Section 53-5-711;

143 (f) a common carrier while engaged in the regular and ordinary transport of firearms as
 144 merchandise; or

145 (g) a nonresident traveling in or through the state, provided that any firearm is:

146 (i) unloaded; and

147 (ii) securely encased as defined in Section 76-10-501.

148 (2) The provisions of Subsections 76-10-504(1)(a), (1)(b), and Section 76-10-505 do not
 149 apply;

150 (a) to any person to whom a permit to carry a concealed firearm has been issued:

151 ~~[(a)]~~ (i) pursuant to Section 53-5-704; or

152 ~~[(b) by another state whose requirements for issuance of a concealed firearm permit have~~
153 ~~been determined annually by the Department of Public Safety to meet or exceed the requirements~~
154 ~~for issuance of a concealed firearm permit in this state.]~~

155 (ii) by another state or county; or

156 (b) to any person that resides in a state or county that allows the person to carry a
157 concealed firearm without a permit.

Legislative Review Note
as of 2-5-01 10:21 AM

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

Office of Legislative Research and General Counsel