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**ANTIQUÉ FIREARMS AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael G. Waddoups**

**This act modifies provisions relating to firearms. The act defines certain terms. The act changes the definition of a firearm to exclude antique firearms and curio or relic firearms.**

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

AMENDS:

**76-10-501**, as last amended by Chapter 303, Laws of Utah 2000

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

Section 1. Section **76-10-501** is amended to read:

**76-10-501. Definitions.**

As used in this part:

(1) (a) "Antique firearm" means any firearm:

(i) (A) with a matchlock, flintlock, percussion cap, or similar type of ignition system; and

(B) that was manufactured in or before 1898;

(ii) that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) any weapon that incorporates a firearm frame or receiver;

- 28            (ii) any firearm that is converted into a muzzle loading weapon; or
- 29            (iii) any muzzle loading weapon that can be readily converted to fire fixed ammunition by
- 30 replacing the:
- 31            (A) barrel;
- 32            (B) bolt;
- 33            (C) breechblock; or
- 34            (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

35            [(+) (2) (a) "Concealed dangerous weapon" means a dangerous weapon that is covered,

36 hidden, or secreted in a manner that the public would not be aware of its presence and is readily

37 accessible for immediate use.

38            (b) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a

39 firearm which is unloaded and is securely encased.

40            [(2) (3) "Criminal history background check" means a criminal background check

41 conducted by a licensed firearms dealer on every purchaser of a handgun through the division or

42 the local law enforcement agency where the firearms dealer conducts business.

43            (4) "Curio or relic firearm" means any firearm that:

44            (a) is of special interest to a collector because of a quality that is not associated with

45 firearms intended for:

- 46            (i) sporting use;
- 47            (ii) use as an offensive weapon; or
- 48            (iii) use as a defensive weapon;

49            (b) (i) was manufactured at least 50 years prior to the current date; and

50            (ii) is not a replica of a firearm described in Subsection (4)(b)(i);

51            (c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms

52 to be a curio or relic of museum interest;

53            (d) derives a substantial part of its monetary value:

54            (i) from the fact that the firearm is:

- 55            (A) novel;
- 56            (B) rare; or
- 57            (C) bazaar; or

58            (ii) because of the firearm's association with an historical:

59 (A) figure;

60 (B) period; or

61 (C) event; and

62 (e) has been designated as a curio or relic firearm by the director of the United States

63 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 178.11.

64 [~~3~~] (5) (a) "Dangerous weapon" means any item that in the manner of its use or intended  
65 use is capable of causing death or serious bodily injury. The following factors shall be used in  
66 determining whether a knife, or any other item, object, or thing not commonly known as a  
67 dangerous weapon is a dangerous weapon:

68 (i) the character of the instrument, object, or thing;

69 (ii) the character of the wound produced, if any;

70 (iii) the manner in which the instrument, object, or thing was used; and

71 (iv) the other lawful purposes for which the instrument, object, or thing may be used.

72 (b) "Dangerous weapon" does not include any explosive, chemical, or incendiary device  
73 as defined by Section 76-10-306.

74 [~~4~~] (6) "Dealer" means every person who is licensed under crimes and criminal  
75 procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring  
76 a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

77 [~~5~~] (7) "Division" means the Criminal Investigations and Technical Services Division  
78 of the Department of Public Safety, created in Section 53-10-103.

79 [~~6~~] (8) "Enter" means intrusion of the entire body.

80 [~~7~~] (9) (a) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or  
81 sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled  
82 a projectile by action of an explosive.

83 (b) "Firearm" does not include:

84 (i) an antique firearm; or

85 (ii) a curio or relic firearm.

86 [~~8~~] (10) "Firearms transaction record form" means a form created by the division to be  
87 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

88 [~~9~~] (11) "Fully automatic weapon" means any firearm which fires, is designed to fire, or  
89 can be readily restored to fire, automatically more than one shot without manual reloading by a

90 single function of the trigger.

91 ~~[(10)]~~ (12) "Handgun" means a pistol, revolver, or other firearm of any description, loaded  
92 or unloaded, from which any shot, bullet, or other missile can be discharged, the length of which,  
93 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

94 ~~[(11)]~~ (13) "House of worship" means a church, temple, synagogue, mosque, or other  
95 building set apart primarily for the purpose of worship in which religious services are held and the  
96 main body of which is kept for that use and not put to any other use inconsistent with its primary  
97 purpose.

98 ~~[(12)]~~ (14) "Prohibited area" means any place where it is unlawful to discharge a firearm.

99 ~~[(13)]~~ (15) "Readily accessible for immediate use" means that a firearm or other dangerous  
100 weapon is carried on the person or within such close proximity and in such a manner that it can  
101 be retrieved and used as readily as if carried on the person.

102 ~~[(14)]~~ (16) "Residence" means an improvement to real property used or occupied as a  
103 primary or secondary residence.

104 ~~[(15)]~~ (17) (a) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel  
105 or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of  
106 fewer than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by  
107 alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer  
108 than 26 inches.

109 (b) "Sawed-off shotgun" or "sawed-off rifle" does not include:

110 (i) an antique firearm; or

111 (ii) a curio or relic firearm.

112 ~~[(16)]~~ (18) "Securely encased" means not readily accessible for immediate use, such as  
113 held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other  
114 storage area of a motor vehicle, not including a glove box or console box.

115 ~~[(17)]~~ (19) "State entity" means each department, commission, board, council, agency,  
116 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
117 unit, bureau, panel, or other administrative unit of the state.

118 ~~[(18)]~~ (20) "Violent felony" means the same as defined in Section 76-3-203.5.

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**Legislative Review Note**

**as of 1-23-01 12:16 PM**

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

**Office of Legislative Research and General Counsel**