

Representative J. Morgan Philpot proposes the following substitute bill:

CONCEALED FIREARM PERMIT AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: J. Morgan Philpot

This act modifies provisions related to Concealed Firearm Permits. The act provides that the Law Enforcement and Technical Services Division or its designated agent may not charge a fee for issuing a concealed firearm permit. The act modifies requirements for obtaining a concealed firearm permit and provides an effective date.

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

53-5-706, as last amended by Chapter 12, Laws of Utah 1994

53-5-707, as last amended by Chapters 120 and 227, Laws of Utah 1999

53-10-202.5, as enacted by Chapter 227, Laws of Utah 1999

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) (a) 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]~~ 15 days after receiving an application and upon proof that the person applying is of good character.

(b) 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].~~



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35 incompetent, unless the adjudication has been withdrawn or reversed; and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

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

- 41 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
- 42 (ii) past participation in incidents involving unlawful violence or threats of unlawful
43 violence; or
- 44 (iii) conviction of any offense in violation of Title 76, Chapter 10, Part 5, Weapons.

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

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

- 49 (i) expunged records of arrests and convictions of adults as provided in Section 77-18-15;
50 and
- 51 (ii) juvenile court records as provided in Section 78-3a-206.

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

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

56 (4) A former peace officer who departs full-time employment as a peace officer, in an

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

59 (5) In assessing good character under Subsection (2), the licensing authority shall consider
60 mitigating circumstances.

61 (6) ~~[Except as provided in Subsection (7), the]~~ The licensing authority shall also require
62 the applicant to provide:

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

64 ~~[(b) letters of character reference;]~~

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

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

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

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

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

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

74 ~~[(8)]~~ (7) (a) General familiarity with the types of firearms to be concealed includes training
75 in:

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

78 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
79 self-defense, use of force by a private citizen including use of deadly force, transportation, and
80 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 certified 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) An applicant for certification as a Utah concealed firearms instructor shall:

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

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

93 [~~10~~] (9) Each certified concealed firearms instructor shall provide for his students the
94 required course of instruction outline approved by the division.

95 [~~11~~] (10) All concealed firearms instructors are required to provide a signed certificate
96 to persons completing the course of instruction, which certificate shall be provided by the applicant
97 to the division.

98 [~~12~~] (11) The division may deny, suspend, or revoke the certification of a concealed
99 firearms instructor if the licensing authority has reason to believe the applicant has:

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

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

102 [~~13~~] (12) A concealed firearms instructor has the same appeal rights as set forth in
103 Subsection [~~16~~] (15).

104 [~~14~~] (13) In issuing a permit under this part, the licensing authority is not vicariously
105 liable for damages caused by the permit holder.

106 [~~15~~] (14) If any person knowingly and willfully provides false information on an
107 application filed under this part, he is guilty of a class B misdemeanor, and his application may be
108 denied, or his permit may be suspended or revoked.

109 [~~16~~] (15) (a) In the event of a denial, suspension, or revocation by the agency, the
110 applicant may file a petition for review with the board within 60 days from the date the denial,
111 suspension, or revocation is received by the applicant by certified mail, return receipt requested.

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

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

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

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

123 ~~[(17)]~~ (16) The commissioner may make rules in accordance with Title 63, Chapter 46a,
124 Utah Administrative Rulemaking Act, necessary to administer this chapter.

125 Section 2. Section **53-5-706** is amended to read:

126 **53-5-706. Permit -- Fingerprints transmitted to division -- Report from division.**

127 (1) (a) Except as provided in Subsection (2), the fingerprints of each applicant shall be
128 taken on two copies of forms prescribed by the division and shall be forwarded to the division.

129 (b) Upon receipt of the fingerprints ~~[and the fee]~~ prescribed in Section 53-5-707, the
130 division shall conduct a search of its files for criminal history information pertaining to the
131 applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through
132 its files.

133 (c) The division shall promptly furnish the forwarding licensing authority a report of all
134 data and information pertaining to any applicant of which there is a record in its office, or of which
135 a record is found in the files of the Federal Bureau of Investigation.

136 (d) A permit may not be issued by any licensing authority until ~~[receipt of the report from~~
137 ~~the division]~~ the criminal history background check is completed.

138 (2) If the permit applicant has previously applied to the same licensing authority for a
139 permit to carry concealed firearms and the applicant's fingerprints ~~[and fee]~~ have been previously
140 forwarded within one year to the division, the licensing authority shall note the previous
141 identification numbers and other data which would provide positive identification in the files of
142 the division on the copy of any subsequent permit submitted to the division in accordance with this
143 section, and no additional application form~~[-]~~ or fingerprints~~[-or fee]~~ are required.

144 Section 3. Section **53-5-707** is amended to read:

145 **53-5-707. Permit -- Fee for replacement -- Disposition.**

146 (1) ~~[Each applicant]~~ The division or its designated agent may not charge a fee for a permit
147 ~~[shall pay a fee of \$35 at the time of filing an application. The initial fee shall be waived for an~~
148 ~~applicant who is a law enforcement officer under Section 53-13-103]~~ except as otherwise provided
149 in Subsection (2).

150 [~~(2) The renewal fee for the permit is \$10.~~]

151 [~~(3)~~ (2) The replacement fee for the permit is \$10.

152 [~~(4) The late fee for the renewal permit is \$7.50.~~]

153 [~~(5) All fees~~] (3) Fees collected under Subsection (2) shall promptly be deposited in the
154 state treasury and credited to the General Fund.

155 [~~(6) The division may collect any fees charged by an outside agency for additional services~~
156 ~~required by statute as a prerequisite for issuance of a permit. The division shall promptly forward~~
157 ~~any fees collected to the appropriate agency.~~]

158 Section 4. Section **53-10-202.5** is amended to read:

159 **53-10-202.5. Bureau services -- Fees.**

160 The bureau shall collect fees for the following services:

161 (1) applicant fingerprint card as determined by Section 53-10-108;

162 (2) bail enforcement licensing as determined by Section 53-11-115;

163 (3) replacement of a concealed firearm permit as determined by [~~Section~~] Subsection
164 53-5-707(2);

165 (4) expungement certificate of eligibility as determined by Section 77-18-11;

166 (5) firearm purchase background check as determined by Section 76-10-526;

167 (6) name check as determined by Section 53-10-108;

168 (7) private investigator licensing as determined by Section 53-9-111; and

169 (8) right of access as determined by Section 53-10-108.

170 Section 5. **Effective date.**

171 This act takes effect on July 1, 2002.