

1                                   **IDENTIFICATION OF STOLEN FIREARMS**

2                                   2004 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Sponsor: Judy Ann Buffmire**

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6 **LONG TITLE**

7 **General Description:**

8           This bill modifies provisions of the Utah Criminal Code related to weapons.

9 **Highlighted Provisions:**

10          This bill:

- 11           ▶ requires a firearms' dealer to request a National Crime Information Center stolen  
12 firearm check on a used firearm prior to its purchase or transfer;
- 13           ▶ requires the Criminal Investigations and Technical Services Division of the  
14 Department of Public Safety to provide the dealer with notice if the National Crime  
15 Information Center check reveals the firearm has been stolen;
- 16           ▶ requires the division to inform the law enforcement agency in the jurisdiction where  
17 the dealer is in business that the firearm is a stolen weapon; and
- 18           ▶ makes certain technical changes.

19 **Monies Appropriated in this Bill:**

20          None

21 **Other Special Clauses:**

22          None

23 **Utah Code Sections Affected:**

24 AMENDS:

25           **76-10-526**, as last amended by Chapters 90 and 303, Laws of Utah 2000

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



28 Section 1. Section **76-10-526** is amended to read:

29 **76-10-526. Criminal background check prior to purchase of a firearm -- National**  
30 **Crime Information Center stolen firearm check prior to purchase of a used firearm -- Fee**  
31 **-- Exemption for concealed firearm permit holders.**

32 (1) A criminal background check required by this section shall only apply to the  
33 purchase of a handgun until federal law requires the background check to extend to other  
34 firearms.

35 (2) At the time that federal law extends the criminal background check requirement to  
36 other firearms, the division shall make rules to extend the background checks required under  
37 this section to the other firearms.

38 (3) For purposes of this section, "valid permit to carry a concealed firearm" does not  
39 include a temporary permit issued pursuant to Section 53-5-705.

40 (4) To establish personal identification and residence in this state for purposes of this  
41 part, a dealer shall require [~~any person~~] an individual receiving a firearm to present:

42 (a) one photo identification on a form issued by a governmental agency of the state;  
43 and

44 (b) one other documentation of residence which must show an address identical to that  
45 shown on the photo identification form.

46 (5) A criminal history background check is required for the sale of a firearm by a  
47 licensed firearm dealer in the state.

48 (6) (a) [~~Any person~~] An individual, except a dealer, purchasing a firearm from a dealer  
49 shall consent in writing to a criminal background check, on a form provided by the division.

50 (b) The form shall [~~also~~] contain the following information:

51 [~~(a)~~] (i) the dealer identification number;

52 [~~(b)~~] (ii) the name and address of the [~~person~~] individual receiving the firearm;

53 [~~(c)~~] (iii) the date of birth, height, weight, eye color, and hair color of the [~~person~~]  
54 individual receiving the firearm; and

55 [~~(d)~~] (iv) the Social Security number or any other identification number of the [~~person~~]  
56 individual receiving the firearm.

57 (7) (a) The dealer shall send the form required by Subsection (6) to the division  
58 immediately upon its completion.

59 (b) ~~[No]~~ A dealer shall ~~may not~~ sell or transfer ~~[any]~~ a firearm to ~~[any person]~~ an  
60 individual until the dealer has provided the division with the information in Subsection (6) and  
61 has received approval from the division under Subsection (9).

62 (8) (a) The dealer shall make a request for criminal history background information and  
63 a National Crime Information Center stolen firearm check on a used firearm by telephone or  
64 other electronic means to the division and shall receive approval or denial of the inquiry by  
65 telephone or other electronic means.

66 (b) A request for a stolen firearm check on a used firearm shall include the serial  
67 number of the firearm.

68 (9) When the dealer calls for or requests a criminal history background check, the  
69 division shall:

70 (a) review the criminal history files, including juvenile court records, to determine if  
71 the ~~[person]~~ individual is prohibited by state or federal law from purchasing, possessing, or  
72 transferring a firearm ~~[by state or federal law];~~

73 (b) inform the dealer that ~~[-(i)]~~ the records indicate the ~~[person is so prohibited; or (ii)-~~  
74 ~~the person is approved for]~~ individual is either approved for or prohibited from purchasing,  
75 possessing, or transferring a firearm;

76 (c) provide the dealer with a unique transaction number for that inquiry; ~~[and]~~

77 (d) provide a response to the requesting dealer during the call for a criminal  
78 background, or by return call, or other electronic means, without delay, except in case of  
79 electronic failure or other circumstances beyond the control of the division, the division shall  
80 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the  
81 delay~~[-]; and~~

82 (e) provide the dealer with notice if a used firearm is a stolen weapon.

83 (10) (a) The division ~~shall~~ may not maintain any records of the criminal history  
84 background check longer than 20 days from the date of the dealer's request if the division  
85 determines that the ~~[person]~~ individual receiving the gun is not prohibited from purchasing,  
86 possessing, or transferring the firearm under state or federal law. ~~[However, the]~~

87 (b) The division shall maintain a log of requests containing the dealer's federal firearms  
88 number, the transaction number, and the transaction date for a period of 12 months.

89 (c) The information on the firearm may not be associated in any manner with the

90 information on the individual.

91 (11) (a) If the criminal history background check discloses information indicating that  
92 the ~~[person]~~ individual attempting to purchase the firearm is prohibited from purchasing,  
93 possessing, or transferring a firearm, the division shall inform the law enforcement agency in  
94 the jurisdiction where the ~~[person]~~ individual resides.

95 (b) If the National Crime Information Center check on a used firearm discloses that the  
96 firearm is a stolen weapon, the division shall inform the law enforcement agency in the  
97 jurisdiction where the dealer is in business.

98 (12) If ~~[a person]~~ an individual is denied the right to purchase a firearm under this  
99 section, the ~~[person]~~ individual may review ~~[his]~~ the criminal history information and may  
100 challenge or amend the information as provided in Section 53-10-108.

101 (13) The division shall make rules as provided in Title 63, Chapter 46a, Utah  
102 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all  
103 records provided by the division pursuant to this part are in conformance with the requirements  
104 of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

105 (14) (a) (i) ~~[All dealers]~~ A dealer shall collect a criminal history background check fee  
106 ~~[which is]~~ of \$7.50.

107 (ii) This fee remains in effect until changed by the division through the process under  
108 Section 63-38-3.2.

109 (b) (i) The dealer shall forward at one time all fees collected for criminal history  
110 background checks performed during the month to the division by the last day of the month  
111 following the sale of a firearm.

112 (ii) The division shall deposit the fees in the General Fund as dedicated credits to cover  
113 the cost of administering and conducting the criminal history background check program.

114 (15) ~~[A person]~~ An individual with a concealed firearm permit issued pursuant to Title  
115 53, Chapter 5, Part 7, Concealed Weapon Act, ~~[shall be]~~ is exempt from the background check  
116 and corresponding fee required in this section for the purchase of a firearm, but not the  
117 National Crime Information Center stolen firearm check on a used firearm, if:

118 (a) the ~~[person]~~ individual presents ~~[his]~~ the concealed firearm permit to the dealer  
119 prior to purchase of the firearm; and

120 (b) the dealer verifies with the division that the ~~[person's]~~ individual's concealed

121 firearm permit is valid.

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**Legislative Review Note**  
as of 12-11-03 3:59 PM

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0063**

**Identification of Stolen Firearms**

*19-Jan-04*

*8:49 AM*

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**State Impact**

It is estimated that provisions of this bill can be implemented with existing resources.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**