

**CONCEALED FIREARM PERMIT FOR
RETIRED PEACE OFFICER**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brent H. Goodfellow

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Concealed Weapon Act related to the issuance of a concealed firearm permit to a retired peace officer.

Highlighted Provisions:

This bill:

- ▶ provides that an individual who has honorably retired from employment as a full-time peace officer shall be issued a concealed firearm permit upon application; and
- ▶ provides that all application and renewal fees are waived for the duration of the permit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2008, Chapters 3 and 382

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

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



28 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**
29 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
30 **suspension, or revocation -- Appeal procedure.**

31 (1) (a) The division or its designated agent shall issue a permit to carry a concealed
32 firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days
33 after receiving an application, unless during the 60-day period the division finds proof that the
34 applicant is not of good character.

35 (b) The permit is valid throughout the state for five years, without restriction, except as
36 otherwise provided by Section 53-5-710.

37 (2) (a) An applicant satisfactorily demonstrates good character if the applicant:

38 (i) has not been convicted of a felony;

39 (ii) has not been convicted of a crime of violence;

40 (iii) has not been convicted of an offense involving the use of alcohol;

41 (iv) has not been convicted of an offense involving the unlawful use of narcotics or
42 other controlled substances;

43 (v) has not been convicted of an offense involving moral turpitude;

44 (vi) has not been convicted of an offense involving domestic violence;

45 (vii) has not been adjudicated by a state or federal court as mentally incompetent,
46 unless the adjudication has been withdrawn or reversed; and

47 (viii) is qualified to purchase and possess a firearm pursuant to Section 76-10-503 and
48 federal law.

49 (b) In assessing good character under Subsection (2)(a), the licensing authority shall
50 consider mitigating circumstances.

51 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has
52 reasonable cause to believe that the applicant or permit holder has been or is a danger to self or
53 others as demonstrated by evidence, including:

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

55 (ii) past participation in incidents involving unlawful violence or threats of unlawful
56 violence; or

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

58 (b) The division may not deny, suspend, or revoke a concealed firearm permit solely

59 for a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

60 (c) In determining whether the applicant or permit holder has been or is a danger to self
61 or others, the division may inspect:

62 (i) expunged records of arrests and convictions of adults as provided in Section
63 77-18-15; and

64 (ii) juvenile court records as provided in Section 78A-6-209.

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

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

69 (4) (a) A former peace officer who [~~departs~~] retires from full-time employment as a
70 peace officer, in an honorable manner, shall be issued a concealed firearm permit [~~within five~~
71 ~~years of that departure if the officer meets the requirements of this section~~] upon application to
72 the division.

73 (b) The division shall waive application and renewal fees for the duration of the permit.

74 (5) Except as provided in Subsection (6), the licensing authority shall also require the
75 applicant to provide:

76 (a) the address of the applicant's permanent residence;

77 (b) one recent dated photograph;

78 (c) one set of fingerprints; and

79 (d) evidence of general familiarity with the types of firearms to be concealed as defined
80 in Subsection (7).

81 (6) An applicant who is a law enforcement officer under Section 53-13-103 may
82 provide a letter of good standing from the officer's commanding officer in place of the evidence
83 required by Subsection (5)(d).

84 (7) (a) General familiarity with the types of firearms to be concealed includes training
85 in:

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

88 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
89 self-defense, use of force by a private citizen, including use of deadly force, transportation, and

90 concealment.

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

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

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

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

100 (c) Instruction taken by a student under Subsection (7)(b) shall be in person and not
101 through electronic means.

102 (8) (a) An applicant for certification as a Utah concealed firearms instructor shall:

103 (i) be at least 21 years of age;

104 (ii) be currently eligible to possess a firearm under Section 76-10-503 and federal law;

105 (iii) have a current National Rifle Association certification or its equivalent as
106 determined by the division; and

107 (iv) for certificates issued beginning July 1, 2006, have taken a course of instruction
108 and passed a certification test as described in Subsection (8)(c).

109 (b) An instructor's certification is valid for three years from the date of issuance, unless
110 revoked by the division.

111 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall
112 attend an instructional course and pass a test under the direction of the division.

113 (ii) (A) ~~[Beginning May 1, 2006, the]~~ The division shall provide or contract to provide
114 the course referred to in Subsection (8)(c)(i) twice every year.

115 (B) The course shall include instruction on current Utah law related to firearms,
116 including concealed carry statutes and rules, and the use of deadly force by private citizens.

117 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of
118 \$50.00 at the time of application for initial certification.

119 (ii) The renewal fee for the certificate is \$25.

120 (iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a

121 dedicated credit to cover the cost incurred in maintaining and improving the instruction
122 program required for concealed firearm instructors under this Subsection (8).

123 (9) A certified concealed firearms instructor shall provide each of the instructor's
124 students with the required course of instruction outline approved by the division.

125 (10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to
126 a person successfully completing the offered course of instruction.

127 (ii) The instructor shall sign the certificate with the exact name indicated on the
128 instructor's certification issued by the division under Subsection (8).

129 (iii) (A) The certificate shall also have affixed to it the instructor's official seal, which
130 is the exclusive property of the instructor and may not be used by any other person.

131 (B) The instructor shall destroy the seal upon revocation or expiration of the
132 instructor's certification under Subsection (8).

133 (C) The division shall determine the design and content of the seal to include at least
134 the following:

135 (I) the instructor's name as it appears on the instructor's certification;

136 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my
137 certification expires on (the instructor's certification expiration date)"; and

138 (III) the instructor's business or residence address.

139 (D) The instructor shall affix the seal [~~shall be affixed~~] to each student certificate
140 issued by the instructor in a manner that does not obscure or render illegible any information or
141 signatures contained in the document.

142 (b) The applicant shall provide the certificate to the division in compliance with
143 Subsection (5)(d).

144 (11) The division may deny, suspend, or revoke the certification of a concealed
145 firearms instructor if it has reason to believe the applicant or certificate holder has:

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

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

148 (12) A concealed firearms instructor has the same appeal rights as set forth in
149 Subsection (15).

150 (13) In providing instruction and issuing a permit under this part, the concealed
151 firearms instructor and the licensing authority are not vicariously liable for damages caused by

152 the permit holder.

153 (14) An individual who knowingly and willfully provides false information on an
154 application filed under this part is guilty of a class B misdemeanor, and the application may be
155 denied, or the permit may be suspended or revoked.

156 (15) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or
157 certificate holder may file a petition for review with the board within 60 days from the date the
158 denial, suspension, or revocation is received by the applicant by certified mail, return receipt
159 requested.

160 (b) The division shall issue its denial of a permit [~~shall be~~] in writing and shall include
161 the general reasons for [~~the~~] its action.

162 (c) If an applicant or certificate holder appeals the denial to the review board, the
163 applicant or certificate holder may have access to the evidence upon which the denial is based
164 in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

165 (d) On appeal to the board, the [~~agency~~] division has the burden of proof by a
166 preponderance of the evidence.

167 (e) (i) Upon a ruling by the board on the appeal of a denial, the division shall issue a
168 final order within 30 days stating the board's decision.

169 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

170 (iii) The final order is final agency action for purposes of judicial review under Section
171 63G-4-402.

172 (16) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah
173 Administrative Rulemaking Act, necessary to administer this chapter.

Legislative Review Note
as of 12-1-08 7:26 AM

Office of Legislative Research and General Counsel

S.B. 45 - Concealed Firearm Permit for Retired Peace Officer

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill will result in \$5,000 per year in lost revenue to the state beginning in FY 2010.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Dedicated Credits	\$0	\$0	\$0	\$0	(\$5,000)	(\$5,000)
Total	\$0	\$0	\$0	\$0	(\$5,000)	(\$5,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Retired law enforcement personnel will benefit.