

**CONCEALED FIREARM PERMIT RESIDENCY
REQUIREMENT**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Concealed Weapon Act related to the qualifications for receiving a concealed firearm permit.

Highlighted Provisions:

This bill:

- ▶ changes the title of the Concealed Weapon Act to the Concealed Firearm Act and the title of the Concealed Weapon Review Board to the Concealed Firearm Review Board;

- ▶ requires an applicant for a concealed firearm permit to be a resident of the state or a member of the armed forces whose permanent duty station is in Utah or a member's dependent; and

- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-1-104, as last amended by Laws of Utah 2007, Chapter 66



- 28 **53-5-701**, as enacted by Laws of Utah 1993, Chapter 234
- 29 **53-5-702**, as last amended by Laws of Utah 2005, Chapter 282
- 30 **53-5-703**, as last amended by Laws of Utah 1997, Chapters 10 and 280
- 31 **53-5-704**, as last amended by Laws of Utah 2008, Chapters 3 and 382



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

34 Section 1. Section **53-1-104** is amended to read:

35 **53-1-104. Boards, bureaus, councils, divisions, and offices.**

36 (1) The following are the policymaking boards within the department:

- 37 (a) the Driver License Medical Advisory Board, created in Section 53-3-303;
- 38 (b) the Concealed [~~Weapon~~] Firearm Review Board, created in Section 53-5-703;
- 39 (c) the Utah Fire Prevention Board, created in Section 53-7-203;
- 40 (d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and
- 41 (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

42 (2) The following are the councils within the department:

- 43 (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and
- 44 (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section
- 45 53-8-203.

46 (3) The following are the divisions within the department:

- 47 (a) the Administrative Services Division, created in Section 53-1-203;
- 48 (b) the Management Information Services Division, created in Section 53-1-303;
- 49 (c) the Division of Homeland Security, created in Section 53-2-103;
- 50 (d) the Driver License Division, created in Section 53-3-103;
- 51 (e) the Criminal Investigations and Technical Services Division, created in Section
- 52 53-10-103;
- 53 (f) the Peace Officers Standards and Training Division, created in Section 53-6-103;
- 54 (g) the State Fire Marshal Division, created in Section 53-7-103; and
- 55 (h) the Utah Highway Patrol Division, created in Section 53-8-103.

56 (4) The Office of Executive Protection is created in Section 53-1-112.

57 (5) The following are bureaus within the department:

- 58 (a) Bureau of Criminal Identification, created in Section 53-10-201;

- 59 (b) State Bureau of Investigation, created in Section 53-10-301;
- 60 (c) Bureau of Forensic Services, created in Section 53-10-401; and
- 61 (d) Bureau of Communications, created in Section 53-10-501.

62 Section 2. Section **53-5-701** is amended to read:

63 **Part 7. Concealed Firearm Act**

64 **53-5-701. Title.**

65 This part is known as the "Concealed [~~Weapon~~] Firearm Act."

66 Section 3. Section **53-5-702** is amended to read:

67 **53-5-702. Definitions.**

68 (1) As used in this part:

69 (a) "Board" means the Concealed [~~Weapon~~] Firearm Review Board created in Section
70 53-5-703.

71 (b) "Commissioner" means the commissioner of the Department of Public Safety.

72 (c) "Conviction" means criminal conduct where the filing of a criminal charge has
73 resulted in:

74 (i) a finding of guilt based on evidence presented to a judge or jury;

75 (ii) a guilty plea;

76 (iii) a plea of nolo contendere;

77 (iv) a plea of guilty or nolo contendere which is held in abeyance pending the
78 successful completion of probation;

79 (v) a pending diversion agreement; or

80 (vi) a conviction which has been reduced pursuant to Section 76-3-402.

81 (d) "Division" means the Criminal Investigations and Technical Services Division
82 created in Section 53-10-103.

83 (2) The definitions in Section 76-10-501 apply to this part.

84 Section 4. Section **53-5-703** is amended to read:

85 **53-5-703. Board -- Membership -- Compensation -- Terms -- Duties.**

86 (1) There is created within the division the Concealed [~~Weapon~~] Firearm Review
87 Board.

88 (2) (a) The board is comprised of not more than five members appointed by the
89 commissioner on a bipartisan basis.

90 (b) The board shall include a member representing law enforcement and at least two
91 citizens, one of whom represents sporting interests.

92 (3) (a) Except as required by Subsection (3)(b), as terms of current board members
93 expire, the commissioner shall appoint each new member or reappointed member to a four-year
94 term.

95 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
96 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
97 board members are staggered so that approximately half of the board is appointed every two
98 years.

99 (4) When a vacancy occurs in the membership for any reason, the commissioner shall
100 appoint the replacement [~~shall be appointed~~] for the unexpired term.

101 (5) (a) (i) Members who are not government employees shall receive no compensation
102 or benefits for their services, but may receive per diem and expenses incurred in the
103 performance of the member's official duties at the rates established by the Division of Finance
104 under Sections 63A-3-106 and 63A-3-107.

105 (ii) Members may decline to receive per diem and expenses for their service.

106 (b) (i) State government officer and employee members who do not receive salary, per
107 diem, or expenses from their agency for their service may receive per diem and expenses
108 incurred in the performance of their official duties from the board at the rates established by the
109 Division of Finance under Sections 63A-3-106 and 63A-3-107.

110 (ii) State government officer and employee members may decline to receive per diem
111 and expenses for their service.

112 (6) The board shall meet at least quarterly, unless the board has no business to conduct
113 during that quarter.

114 (7) The board, upon receiving a timely filed petition for review, shall review within a
115 reasonable time the denial, suspension, or revocation of a permit or a temporary permit to carry
116 a concealed firearm.

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

118 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**
119 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
120 **suspension, or revocation -- Appeal procedure.**

121 (1) (a) The division or its designated agent shall issue a permit to carry a concealed
122 firearm for lawful self defense to an applicant who is;

123 (i) at least 21 years of age [~~or older~~]; and

124 (ii) (A) a resident of the state;

125 (B) a member of the armed forces whose permanent duty station is located in Utah; or

126 (C) a dependent, living in Utah, of an individual referred to in Subsection (1)(a)(ii)(B).

127 (b) The division or its designated agent shall issue the permit within 60 days after

128 receiving an application, unless during the 60-day period the division finds proof that the

129 applicant is not of good character.

130 [~~(b)~~] (c) The permit is valid throughout the state for five years, without restriction,

131 except as otherwise provided by Section 53-5-710.

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

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

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

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

136 (iv) has not been convicted of an offense involving the unlawful use of narcotics or

137 other controlled substances;

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

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

140 (vii) has not been adjudicated by a state or federal court as mentally incompetent,

141 unless the adjudication has been withdrawn or reversed; and

142 (viii) is qualified to purchase and possess a firearm pursuant to Section 76-10-503 and

143 federal law.

144 (b) In assessing good character under Subsection (2)(a), the licensing authority shall

145 consider mitigating circumstances.

146 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has

147 reasonable cause to believe that the applicant or permit holder has been or is a danger to self or

148 others as demonstrated by evidence, including:

149 (i) past pattern of behavior involving unlawful violence or [~~threats~~] a threat of unlawful
150 violence;

151 (ii) past participation in [~~incidents~~] an incident involving unlawful violence or [~~threats~~]

152 a threat of unlawful violence; or

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

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

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

158 (i) expunged records of arrests and convictions of adults as provided in Section
159 77-18-15; and

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

161 (d) (i) If a person granted a permit under this part [~~has been~~] is charged with a crime of
162 violence in any state, the division shall suspend the permit.

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

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

168 [~~(5)~~] (4) Except as provided in Subsection [~~(6)~~] (5), the licensing authority shall also
169 require the applicant to provide:

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

171 (b) one recent dated photograph;

172 (c) one set of fingerprints; and

173 (d) evidence of general familiarity with the [~~types~~] type of [~~firearms~~] firearm to be
174 concealed as defined in Subsection [~~(7)~~] (6).

175 [~~(6)~~] (5) An applicant who is a law enforcement officer under Section 53-13-103 may
176 provide a letter of good standing from the officer's commanding officer in place of the evidence
177 required by Subsection [~~(5)~~] (4)(d).

178 [~~(7)~~] (6) (a) General familiarity with the [~~types~~] type of [~~firearms~~] firearm to be
179 concealed includes training in:

180 (i) the safe loading, unloading, storage, and carrying of the [~~types~~] type of [~~firearms~~]
181 firearm to be concealed; and

182 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful

183 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
184 concealment.

185 (b) Evidence of general familiarity with the [~~types~~] type of [~~firearms~~] firearm to be
186 concealed may be satisfied by one of the following:

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

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

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

194 (c) [~~Instruction taken by a~~] A student shall take instruction under Subsection [~~(7)~~]
195 (6)(b) [shall be] in person and not through electronic means.

196 [~~(8)~~] (7) (a) An applicant for certification as a Utah concealed firearms instructor shall:

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

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

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

201 (iv) for certificates issued beginning July 1, 2006, have taken a course of instruction
202 and passed a certification test as described in Subsection [~~(8)~~] (7)(c).

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

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

207 (ii) (A) [~~Beginning May 1, 2006, the~~] The division shall provide or contract to provide
208 the course referred to in Subsection [~~(8)~~] (7)(c)(i) twice every year.

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

211 (d) (i) Each applicant for certification under this Subsection [~~(8)~~] (7) shall pay a fee of
212 \$50.00 at the time of application for initial certification.

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

214 (iii) The ~~[fees]~~ division may use a fee paid under Subsections ~~[(8)]~~ (7)(d)(i) and (ii)
215 ~~[may be used by the division]~~ as a dedicated credit to cover the cost incurred in maintaining
216 and improving the instruction program required for concealed firearm instructors under this
217 Subsection ~~[(8)]~~ (7).

218 ~~[(9)]~~ (8) A certified concealed firearms instructor shall provide each of the instructor's
219 students with the required course of instruction outline approved by the division.

220 ~~[(10)]~~ (9) (a) (i) A concealed firearms instructor ~~[is required to]~~ shall provide a signed
221 certificate to a person successfully completing the offered course of instruction.

222 (ii) The instructor shall sign the certificate with the exact name indicated on the
223 instructor's certification issued by the division under Subsection ~~[(8)]~~ (7).

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

226 (B) The instructor shall destroy the seal upon revocation or expiration of the
227 instructor's certification under Subsection ~~[(8)]~~ (7).

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

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

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

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

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

237 (b) The applicant shall provide the certificate to the division in compliance with
238 Subsection ~~[(5)]~~ (4)(d).

239 ~~[(11)]~~ (10) The division may deny, suspend, or revoke the certification of a concealed
240 firearms instructor if it has reason to believe that the applicant or certificate holder has:

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

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

243 ~~[(12)]~~ (11) A concealed firearms instructor has the same appeal rights as set forth in
244 Subsection ~~[(15)]~~ (14).

245 ~~[(13)]~~ (12) In providing instruction and issuing a permit under this part, the concealed
246 firearms instructor and the licensing authority are not vicariously liable for damages caused by
247 the permit holder.

248 ~~[(14)]~~ (13) An individual who knowingly and willfully provides false information on
249 an application filed under this part is guilty of a class B misdemeanor, and the division may
250 deny the application ~~[may be denied;]~~ or suspend or revoke the permit ~~[may be suspended or~~
251 ~~revoked]~~.

252 ~~[(15)]~~ (14) (a) In the event of a denial, suspension, or revocation of a permit, the
253 applicant or permit holder may file a petition for review with the board within 60 days from the
254 date the denial, suspension, or revocation is received by the applicant or permit holder by
255 certified mail, return receipt requested.

256 (b) The denial, suspension, or revocation of a permit shall be in writing and shall
257 include the general reasons for the action.

258 (c) If an applicant or permit holder appeals the denial, suspension, or revocation to the
259 review board, the applicant or permit holder may have access to the evidence upon which the
260 ~~[denial]~~ action is based in accordance with Title 63G, Chapter 2, Government Records Access
261 and Management Act.

262 (d) On appeal to the board, the agency has the burden of proof by a preponderance of
263 the evidence.

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

266 (ii) The division shall issue the final order ~~[shall be]~~ in the form prescribed by
267 Subsection 63G-4-203(1)(i).

268 (iii) The final order is final agency action for purposes of judicial review under Section
269 63G-4-402.

270 ~~[(16)]~~ (15) The commissioner may make rules in accordance with Title 63G, Chapter
271 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Legislative Review Note
as of 11-21-08 10:17 AM

Office of Legislative Research and General Counsel

S.B. 96 - Concealed Firearm Permit Residency Requirement

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill will result in a loss of state revenue of \$740,000 and a reduction of 5 FTEs beginning 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	(\$740,000)	(\$740,000)	\$0	(\$740,000)	(\$740,000)
Total	\$0	(\$740,000)	(\$740,000)	\$0	(\$740,000)	(\$740,000)

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. Nonresidents of the state will no longer be permitted to purchase a concealed firearm permit.
