

1 **CONCEALED FIREARM ACT MODIFICATIONS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ronda Rudd Menlove**

5 Senate Sponsor: _____

6

LONG TITLE

7 **General Description:**

8 This bill modifies provisions of the Concealed Firearm Act regarding the requirements
9 for certification as a concealed firearms instructor.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ requires an applicant for certification as a concealed firearms instructor to have a
- 13 current National Rifle Association certification or post certification from the Utah
- 14 Police Academy or their equivalent at the time of the initial request for certification;
- 15 ▶ provides that a concealed firearms instructor seeking renewal of certification, who is
- 16 a resident of the state, is not required to have a current National Rifle Association
- 17 certification or its equivalent to obtain a renewal; and
- 18 ▶ provides that an instructor seeking renewal, who is a resident of the state, is not
- 19 required to have a current post certification from the Utah Police Academy or its
- 20 equivalent, if the instructor was a peace officer at the time of issuance of the initial
- 21 permit and has since retired from that profession or changed professions.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**



28 AMENDS:

29 **53-5-704**, as last amended by Laws of Utah 2010, Chapters 62 and 283



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

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

33 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**
34 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
35 **suspension, or revocation -- Appeal procedure.**

36 (1) (a) The bureau shall issue a permit to carry a concealed firearm for lawful self
37 defense to an applicant who is 21 years of age or older within 60 days after receiving an
38 application, unless the bureau finds proof that the applicant does not meet the qualifications set
39 forth in Subsection (2).

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

42 (c) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not
43 apply to a person issued a permit under Subsection (1)(a).

44 (2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the
45 applicant or permit holder:

- 46 (i) has been or is convicted of a felony;
- 47 (ii) has been or is convicted of a crime of violence;
- 48 (iii) has been or is convicted of an offense involving the use of alcohol;
- 49 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
50 other controlled substances;
- 51 (v) has been or is convicted of an offense involving moral turpitude;
- 52 (vi) has been or is convicted of an offense involving domestic violence;
- 53 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
54 unless the adjudication has been withdrawn or reversed; and

55 (viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503
56 and federal law.

57 (b) In determining whether an applicant or permit holder meets the qualifications set
58 forth in Subsection (2)(a), the bureau shall consider mitigating circumstances.

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

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

63 (ii) past participation in incidents involving unlawful violence or threats of unlawful
64 violence; or

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

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

68 (c) In determining whether the applicant or permit holder has been or is a danger to self
69 or others, the bureau may inspect:

70 (i) expunged records of arrests and convictions of adults as provided in Section
71 77-40-109; and

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

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

75 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having
76 been dropped, the bureau shall immediately reinstate the suspended permit.

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

80 (5) Except as provided in Subsection (6), the bureau shall also require the applicant to
81 provide:

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

83 (b) one recent dated photograph;

84 (c) one set of fingerprints; and

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

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

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

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

94 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
95 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
96 concealment.

97 (b) An applicant may satisfy the general familiarity requirement of Subsection (7)(a) by
98 one of the following:

99 (i) completion of a course of instruction conducted by a national, state, or local
100 firearms training organization approved by the bureau;

101 (ii) certification of general familiarity by a person who has been certified by the bureau,
102 which may include a law enforcement officer, military or civilian firearms instructor, or hunter
103 safety instructor; or

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

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

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

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

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

111 (iii) have a current National Rifle Association certification or [its] post certification
112 from the Utah Police Academy or their equivalent as determined by the division at the time of
113 the initial request for certification; and

114 (iv) have taken a course of instruction and passed a certification test as described in
115 Subsection (8)(c).

116 (b) An instructor's certification is valid for three years from the date of issuance, unless
117 revoked by the bureau.

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

120 (ii) An instructor, who is a resident of the state, is not required to have:

121 (A) a current National Rifle Association certification or its equivalent to obtain a
122 renewal certification; or

123 (B) a current post certification from the Utah Police Academy or its equivalent to
124 obtain a renewal certification if the instructor was a peace officer at the time of issuance of the
125 initial instructor's permit under Subsections (8)(a) and (b) and has since retired from that
126 profession or changed professions.

127 ~~(ii)~~ (iii) (A) The bureau shall provide or contract to provide the course referred to in
128 Subsection (8)(c)(i) twice every year.

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

131 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of
132 \$50.00 at the time of application for initial certification.

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

134 (iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the bureau as a
135 dedicated credit to cover the cost incurred in maintaining and improving the instruction
136 program required for concealed firearm instructors under this Subsection (8).

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

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

141 (ii) The instructor shall sign the certificate with the exact name indicated on the
142 instructor's certification issued by the bureau under Subsection (8).

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

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

147 (C) The bureau shall determine the design and content of the seal to include at least the
148 following:

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

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

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

153 (D) The seal shall be affixed to each student certificate issued by the instructor in a
154 manner that does not obscure or render illegible any information or signatures contained in the
155 document.

156 (b) The applicant shall provide the certificate to the bureau in compliance with
157 Subsection (5)(d).

158 (11) The division may deny, suspend, or revoke the certification of an applicant or a
159 concealed firearms instructor if it has reason to believe the applicant or the instructor has:

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

161 (b) knowingly and willfully provided false information to the bureau.

162 (12) An applicant for certification or a concealed firearms instructor has the same
163 appeal rights as set forth in Subsection (15).

164 (13) In providing instruction and issuing a permit under this part, the concealed
165 firearms instructor and the bureau are not vicariously liable for damages caused by the permit
166 holder.

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

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

174 (b) The bureau's denial of a permit shall be in writing and shall include the general
175 reasons for the action.

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

179 (d) On appeal to the board, the bureau has the burden of proof by a preponderance of
180 the evidence.

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

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

184 (iii) The final order is final bureau action for purposes of judicial review under Section
185 63G-4-402.

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

Legislative Review Note

as of **1-27-11 8:34 AM**

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 257

SHORT TITLE: **Concealed Firearm Act Modifications**

SPONSOR: **Menlove, R.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.