

**CONCEALED FIREARM ACT AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Curtis Oda

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Concealed Firearm Act related to the issuance of concealed firearm permits to nonresidents.

**Highlighted Provisions:**

This bill:

► requires a nonresident applicant for a concealed firearm permit to hold a current concealed firearm or concealed weapon permit from the applicant's state of residency that recognizes the validity of the Utah permit in that state or has reciprocity with the Utah concealed firearm permit law; and

► requires a nonresident applicant to pay an additional \$5 processing fee for the issuance of the permit.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

**53-5-707**, as last amended by Laws of Utah 2010, Chapter 62

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

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

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

33 (1) (a) (i) [The] Except as otherwise provided in Subsection (1)(a)(ii), the bureau shall  
34 issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21  
35 years of age or older within 60 days after receiving an application, unless the bureau finds  
36 proof that the applicant does not meet the qualifications set forth in Subsection (2).

37 (ii) In addition to meeting the other qualifications for the issuance of a concealed  
38 firearm permit under this section, a nonresident applicant shall:

39 (A) hold a current concealed firearm or concealed weapon permit issued by the  
40 appropriate permitting authority of the nonresident applicant's state of residency that recognizes  
41 the validity of the Utah permit in that state or has reciprocity with Utah's concealed firearm  
42 permit law; and

43 (B) submit a photocopy or electronic copy of the nonresident applicant's current  
44 concealed firearm or concealed weapon permit referred to in Subsection (1)(a)(ii)(A).

45 (iii) A nonresident applicant who knowingly and willfully provides false information to  
46 the bureau under Subsection (1)(a)(ii) is prohibited from holding a Utah concealed firearm  
47 permit for a period of 10 years.

48 (iv) Beginning January 1, 2012, Subsection (1)(a)(ii) also applies to an application for  
49 renewal of a concealed firearm permit by a nonresident.

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

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

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

56 (i) has been or is convicted of a felony;

57 (ii) has been or is convicted of a crime of violence;

58 (iii) has been or is convicted of an offense involving the use of alcohol;

59 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or  
60 other controlled substances;

61 (v) has been or is convicted of an offense involving moral turpitude;

62 (vi) has been or is convicted of an offense involving domestic violence;

63 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,  
64 unless the adjudication has been withdrawn or reversed; and

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

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

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

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

73 (ii) past participation in incidents involving unlawful violence or threats of unlawful  
74 violence; or

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

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

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

80 (i) expunged records of arrests and convictions of adults as provided in Section  
81 77-40-109; and

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

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

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

87 (4) [~~A~~] The bureau shall issue a concealed firearm permit to a former peace officer  
88 who departs full-time employment as a peace officer, in an honorable manner, [shall be issued  
89 a concealed firearm permit] within five years of that departure if the officer meets the

90 requirements of this section.

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

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

94 (b) one recent dated photograph;

95 (c) one set of fingerprints; and

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

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

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

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

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

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

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

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

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

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

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

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

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

122 (iii) have a current National Rifle Association certification or its equivalent as

123 determined by the division; ~~and~~

124 (iv) have taken a course of instruction and passed a certification test as described in

125 Subsection (8)(c)[-]; and

126 (v) be eligible to possess a Utah concealed firearm permit.

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

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

131 (ii) (A) The bureau shall provide or contract to provide the course referred to in  
132 Subsection (8)(c)(i) twice every year.

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

135 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of  
136 \$50.00 at the time of application for initial certification.

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

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

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

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

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

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

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

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

- 154 (I) the instructor's name as it appears on the instructor's certification;
- 155 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my  
156 certification expires on (the instructor's certification expiration date)"; and
- 157 (III) the instructor's business or residence address.

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

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

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

- 165 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or
- 166 (b) knowingly and willfully provided false information to the bureau.

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

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

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

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

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

181 (c) If an applicant or permit holder appeals the denial to the review board, the applicant  
182 or permit holder may have access to the evidence upon which the denial is based in accordance

183 with Title 63G, Chapter 2, Government Records Access and Management Act.

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

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

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

189 (iii) The final order is final bureau action for purposes of judicial review under Section  
190 63G-4-402.

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

193 Section 2. Section **53-5-707** is amended to read:

194 **53-5-707. Permit -- Fees -- Disposition.**

195 (1) (a) Each applicant for a permit shall pay a fee of \$35 at the time of filing an  
196 application, except that a nonresident applicant shall pay an additional \$5 for the additional  
197 cost of processing a nonresident application.

198 (b) The initial fee shall be waived for an applicant who is a law enforcement officer  
199 under Section 53-13-103.

200 (2) The renewal fee for the permit is \$10.

201 (3) The replacement fee for the permit is \$10.

202 (4) The late fee for the renewal permit is \$7.50.

203 (5) The bureau shall use the fees collected under Subsections (1), (2), (3), and (4) as a  
204 dedicated credit to cover the costs of issuing concealed firearm permits under this part.

205 (6) (a) The bureau may collect any fees charged by an outside agency for additional  
206 services required by statute as a prerequisite for issuance of a permit.

207 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the  
208 appropriate agency.

209 (7) The bureau shall make an annual report to the Legislature's Law Enforcement and  
210 Criminal Justice Interim Committee on the amount and use of the fees collected under this  
211 section.

**Legislative Review Note**  
**as of 10-20-10 4:35 PM**

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

## S.B. 36, 2011 General Session

SHORT TITLE: Concealed Firearm Act Amendments

SPONSOR: Valentine, J.

STATE OF UTAH

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

Enactment of this bill will likely reduce dedicated credits revenues by an estimated \$1,298,500 annually beginning FY 2012.

#### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
Dedicated Credits	\$0	(\$1,298,500)	(\$1,298,500)
Total Revenue	\$0	(\$1,298,500)	(\$1,298,500)
Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$1,298,500)	(\$1,298,500)
Net Impact, General/Education Funds	\$0	\$0	\$0

### 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.