

CONCEALED WEAPON PERMIT FOR SERVICE MEMBERS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the requirements for issuing and renewing a concealed weapon permit for a United States active duty service member and spouse.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for a concealed weapon permit for a United States military active duty service member and spouse who are not residents of the state;
- ▶ exempts United States military active duty service members, military reserve active duty service members, and national guard active duty service members from the five year concealed weapon permit renewal requirement;
- ▶ waives the concealed weapon permit initial fee and renewal fee for both resident and nonresident active duty service members and waives the renewal fee for the active duty service members' spouses; and
- ▶ defines active duty service member and spouse of an active duty service member.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **53-5-702**, as last amended by Laws of Utah 2010, Chapter 62
 29 **53-5-704**, as last amended by Laws of Utah 2012, Chapter 317
 30 **53-5-707**, as last amended by Laws of Utah 2012, Chapter 65

31 ENACTS:

32 **53-5-712**, Utah Code Annotated 1953



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

35 Section 1. Section **53-5-702** is amended to read:

36 **53-5-702. Definitions.**

37 ~~[(+)]~~ As used in this part:

38 ~~(1)~~ (a) "Active duty service member" means a person on active military duty with the
 39 United States military and includes full time military active duty, military reserve active duty,
 40 and national guard military active duty service members.

41 ~~(b)~~ (b) "Active duty service member spouse" means a person recognized by the military as
 42 the spouse of an active duty service member.

43 ~~[(a)]~~ (c) "Board" means the Concealed Firearm Review Board created in Section
 44 53-5-703.

45 ~~[(b)]~~ (d) "Bureau" means the Bureau of Criminal Identification created in Section
 46 53-10-201 within the Department of Public Safety.

47 ~~[(e)]~~ (e) "Commissioner" means the commissioner of the Department of Public Safety.

48 ~~[(+)]~~ (f) "Conviction" means criminal conduct where the filing of a criminal charge has
 49 resulted in:

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

51 (ii) a guilty plea;

52 (iii) a plea of nolo contendere;

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

55 (v) a pending diversion agreement; or

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

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

58 Section 2. Section **53-5-704** is amended to read:

59 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**
60 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
61 **suspension, or revocation -- Appeal procedure.**

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

66 (b) The permit is valid throughout the state for five years, without restriction, except as
67 otherwise provided by Section 53-5-710 and Section 53-5-712.

68 (c) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505₂ do not
69 apply to a person issued a permit under Subsection (1)(a).

70 (d) Subsections (4)(a)(i) and (ii) do not apply to a nonresident:

71 (i) active duty service member stationed in Utah who shows a valid United States
72 military active duty identification card to the bureau; or

73 (ii) an active duty service member's spouse who shows a valid United States military
74 dependent identification card.

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

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

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

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

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

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

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

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

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

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

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

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

94 (ii) past participation in incidents involving unlawful violence or threats of unlawful
95 violence; or

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

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

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

101 (i) expunged records of arrests and convictions of adults as provided in Section
102 77-40-109; and

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

104 (4) (a) In addition to meeting the other qualifications for the issuance of a concealed
105 firearm permit under this section, a nonresident applicant who resides in a state that recognizes
106 the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law
107 shall:

108 (i) hold a current concealed firearm or concealed weapon permit issued by the
109 appropriate permitting authority of the nonresident applicant's state of residency; and

110 (ii) submit a photocopy or electronic copy of the nonresident applicant's current
111 concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

112 (b) A nonresident applicant who knowingly and willfully provides false information to
113 the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit
114 for a period of 10 years.

115 (c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm
116 permit that are received by the bureau after May 10, 2011.

117 (d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for
118 renewal of a concealed firearm permit by a nonresident.

119 (5) The bureau shall issue a concealed firearm permit to a former peace officer who
120 departs full-time employment as a peace officer, in an honorable manner, within five years of

121 that departure if the officer meets the requirements of this section.

122 (6) Except as provided in Subsection (7), the bureau shall also require the applicant to
123 provide:

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

125 (b) one recent dated photograph;

126 (c) one set of fingerprints; and

127 (d) evidence of general familiarity with the types of firearms to be concealed as defined
128 in Subsection (8).

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

132 (8) (a) General familiarity with the types of firearms to be concealed includes training
133 in:

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

136 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
137 self-defense[;] and use of force by a private citizen, including use of deadly force,
138 transportation, and concealment.

139 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by
140 one of the following:

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

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

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

148 (c) Instruction taken by a student under Subsection (8) shall be in person and not
149 through electronic means.

150 (9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

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

- 152 (ii) be currently eligible to possess a firearm under Section 76-10-503;
- 153 (iii) have:
 - 154 (A) completed a firearm instruction training course from the National Rifle Association
 - 155 or the Department of Public Safety, Division of Peace Officer Safety Standards and Training;
 - 156 or
 - 157 (B) received training equivalent to one of the courses referred to in Subsection
 - 158 (8)(a)(iii)(A) as determined by the bureau;
 - 159 (iv) have taken a course of instruction and passed a certification test as described in
 - 160 Subsection (9)(c); and
 - 161 (v) possess a Utah concealed firearm permit.
- 162 (b) An instructor's certification is valid for three years from the date of issuance, unless
- 163 revoked by the bureau.
 - 164 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall
 - 165 attend an instructional course and pass a test under the direction of the bureau.
 - 166 (ii) (A) The bureau shall provide or contract to provide the course referred to in
 - 167 Subsection (9)(c)(i) twice every year.
 - 168 (B) The course shall include instruction on current Utah law related to firearms,
 - 169 including concealed carry statutes and rules, and the use of deadly force by private citizens.
 - 170 (d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of
 - 171 \$50.00 at the time of application for initial certification.
 - 172 (ii) The renewal fee for the certificate is \$25.
 - 173 (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated
 - 174 credit to cover the cost incurred in maintaining and improving the instruction program required
 - 175 for concealed firearm instructors under this Subsection (9).
- 176 (10) A certified concealed firearms instructor shall provide each of the instructor's
- 177 students with the required course of instruction outline approved by the bureau.
- 178 (11) (a) (i) A concealed firearms instructor shall provide a signed certificate to a person
- 179 successfully completing the offered course of instruction.
 - 180 (ii) The instructor shall sign the certificate with the exact name indicated on the
 - 181 instructor's certification issued by the bureau under Subsection (9).
 - 182 (iii) (A) The certificate shall also have affixed to it the instructor's official seal, which

183 is the exclusive property of the instructor and may not be used by any other person.

184 (B) The instructor shall destroy the seal upon revocation or expiration of the
185 instructor's certification under Subsection (9).

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

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

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

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

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

195 (b) The applicant shall provide the certificate to the bureau in compliance with
196 Subsection (6)(d).

197 (12) The bureau may deny, suspend, or revoke the certification of an applicant or a
198 concealed firearms instructor if it has reason to believe the applicant or the instructor has:

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

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

201 (13) An applicant for certification or a concealed firearms instructor has the same
202 appeal rights as set forth in Subsection (16).

203 (14) In providing instruction and issuing a permit under this part, the concealed
204 firearms instructor and the bureau are not vicariously liable for damages caused by the permit
205 holder.

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

209 (16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or
210 permit holder may file a petition for review with the board within 60 days from the date the
211 denial, suspension, or revocation is received by the applicant or permit holder by certified mail,
212 return receipt requested.

213 (b) The bureau's denial of a permit shall be in writing and shall include the general

214 reasons for the action.

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

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

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

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

223 (iii) The final order is final bureau action for purposes of judicial review under Section
224 63G-4-402.

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

227 Section 3. Section **53-5-707** is amended to read:

228 **53-5-707. Concealed firearm permit -- Fees -- Disposition.**

229 (1) (a) Each applicant for a concealed firearm permit shall pay a fee of \$29.75 at the
230 time of filing an application, except that a nonresident applicant shall pay an additional \$5 for
231 the additional cost of processing a nonresident application.

232 (b) The bureau shall waive the initial fee for an applicant who is a law enforcement
233 officer under Section 53-13-103.

234 (c) The initial concealed weapon permit fees and the renewal fees for both resident and
235 nonresident active duty service members shall be waived. The renewal fees for the spouse of
236 an active duty service member shall be waived.

237 (2) The renewal fee for the permit is \$15.

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

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

240 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal
241 submitted on a permit that has been expired for more than 30 days but less than one year.

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

244 (6) (a) The bureau may collect any fees charged by an outside agency for additional

245 services required by statute as a prerequisite for issuance of a permit.

246 (b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that
247 the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest
248 even dollar amount to that total.

249 (c) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the
250 appropriate agency.

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

254 Section 4. Section **53-5-712** is enacted to read:

255 **53-5-712. Concealed weapon permit renewal for active duty service members --**
256 **Spouses.**

257 (1) Active duty service members, as defined in Section 53-5-702, are exempt from
258 renewing the active duty service member's concealed weapon permit as required in Section
259 53-5-704 while on active duty.

260 (2) Active duty service members, after being honorably discharged or designated
261 inactive reserve, shall renew the active duty service member's permit within 120 days from the
262 date of discharge or being designated inactive reserve.

263 (3) The spouse of an active duty service member shall renew the spouse's permit with
264 120 days of the active duty service member's honorable discharge or being designated inactive
265 reserve.

266 (4) A permit held by an active duty service member who is separated from the military
267 under less than honorable conditions expires immediately on the date of discharge.

Legislative Review Note
as of 1-31-13 5:55 PM

Office of Legislative Research and General Counsel