

WEAPONS RESTRICTIONS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Edward H. Redd

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the possession, purchase, transfer, and ownership of a dangerous weapon.

Highlighted Provisions:

This bill:

► restricts a person who has been civilly committed to the custody of a local mental health authority from the possession, purchase, transfer, and ownership of a dangerous weapon.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-503, as last amended by Laws of Utah 2012, Chapter 317

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

Section 1. Section **76-10-503** is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons.



- 28 (1) For purposes of this section:
- 29 (a) A Category I restricted person is a person who:
- 30 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;
- 31 (ii) is on probation or parole for any felony;
- 32 (iii) is on parole from a secure facility as defined in Section 62A-7-101;
- 33 (iv) within the last 10 years has been adjudicated delinquent for an offense which if
- 34 committed by an adult would have been a violent felony as defined in Section 76-3-203.5; or
- 35 (v) is an alien who is illegally or unlawfully in the United States.
- 36 (b) A Category II restricted person is a person who:
- 37 (i) has been convicted of any felony;
- 38 (ii) within the last seven years has been adjudicated delinquent for an offense which if
- 39 committed by an adult would have been a felony;
- 40 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 41 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
- 42 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- 43 (v) has been found not guilty by reason of insanity for a felony offense;
- 44 (vi) has been found mentally incompetent to stand trial for a felony offense;
- 45 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
- 46 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been civily
- 47 committed to [a mental institution] the custody of a local mental health authority in accordance
- 48 with Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities;
- 49 (viii) has been dishonorably discharged from the armed forces; or
- 50 (ix) has renounced his citizenship after having been a citizen of the United States.
- 51 (2) A Category I restricted person who intentionally or knowingly agrees, consents,
- 52 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or
- 53 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under
- 54 the person's custody or control:
- 55 (a) any firearm is guilty of a second degree felony; or
- 56 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.
- 57 (3) A Category II restricted person who purchases, transfers, possesses, uses, or has
- 58 under the person's custody or control:

- 59 (a) any firearm is guilty of a third degree felony; or
- 60 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.
- 61 (4) A person may be subject to the restrictions of both categories at the same time.
- 62 (5) If a higher penalty than is prescribed in this section is provided in another section
- 63 for one who purchases, transfers, possesses, uses, or has under this custody or control any
- 64 dangerous weapon, the penalties of that section control.
- 65 (6) It is an affirmative defense to a charge based on the definition in Subsection
- 66 (1)(b)(iv) that the person was:
- 67 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner
- 68 for use of a member of the person's household or for administration to an animal owned by the
- 69 person or a member of the person's household; or
- 70 (b) otherwise authorized by law to possess the substance.
- 71 (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon
- 72 by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:
- 73 (i) was possessed by the person or was under the person's custody or control before the
- 74 person became a restricted person;
- 75 (ii) was not used in or possessed during the commission of a crime or subject to
- 76 disposition under Section ~~[76-10-525]~~ [24-3-103](#);
- 77 (iii) is not being held as evidence by a court or law enforcement agency;
- 78 (iv) was transferred to a person not legally prohibited from possessing the weapon; and
- 79 (v) unless a different time is ordered by the court, was transferred within 10 days of the
- 80 person becoming a restricted person.
- 81 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person
- 82 of a firearm or other dangerous weapon by a restricted person.
- 83 (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or
- 84 dangerous weapon to any person, knowing that the recipient is a person described in
- 85 Subsection (1)(a) or (b).
- 86 (b) A person who violates Subsection (8)(a) when the recipient is:
- 87 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
- 88 guilty of a second degree felony;
- 89 (ii) a person described in Subsection (1)(a) and the transaction involves any dangerous

90 weapon other than a firearm, is guilty of a third degree felony;

91 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
92 guilty of a third degree felony; or

93 (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous
94 weapon other than a firearm, is guilty of a class A misdemeanor.

95 (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
96 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under
97 circumstances which the person knows would be a violation of the law.

98 (b) A person may not provide to a dealer or other person what the person knows to be
99 materially false information with intent to deceive the dealer or other person about the legality
100 of a sale, transfer or other disposition of a firearm or dangerous weapon.

101 (c) "Materially false information" means information that portrays an illegal transaction
102 as legal or a legal transaction as illegal.

103 (d) A person who violates this Subsection (9) is guilty of:

104 (i) a third degree felony if the transaction involved a firearm; or

105 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a
106 firearm.

Legislative Review Note
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Office of Legislative Research and General Counsel