

1 **REVOCAION OF CONCEALED FIREARM**

2 **PERMIT AMENDMENTS**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Steve Barth**

6 AN ACT RELATING TO PUBLIC SAFETY; AMENDING WHEN THE DIVISION MAY
7 DENY, SUSPEND, OR REVOKE A CONCEALED FIREARM PERMIT; **h AMENDING IN CROSS**

7a **REFERENCE LANGUAGE; h AND MAKING**

8 TECHNICAL CHANGES.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **53-5-704**, as last amended by Chapter 280, Laws of Utah 1997

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

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

14 **53-5-704. Division duties -- Permit to carry concealed firearm -- Requirements for**
15 **issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.**

16 (1) The division or its designated agent shall issue a permit to carry a concealed firearm
17 for lawful self defense to an applicant who is 21 years of age or older within 60 days after
18 receiving an application and upon proof that the person applying is of good character. The permit
19 is valid **h FOR TWO YEARS h** throughout the state, without restriction **h [, for two years] EXCEPT AS**

19a **PROVIDED BY SECTION 53-5-710 h .**

20 (2) An applicant **h OR PERMIT HOLDER h** satisfactorily demonstrates good character if he:

21 (a) has not been convicted of a felony;

22 (b) has not been convicted of any crime of violence;

23 (c) has not been convicted of any offenses involving the use of alcohol;

24 (d) has not been convicted of any offense involving the unlawful use of narcotics or other
25 controlled substances;

26 (e) has not been convicted of any offenses involving moral turpitude;

27 (f) has not been convicted of any offense involving domestic violence;

1 (g) has not been adjudicated by a court of a state or of the United States as mentally
2 incompetent, unless the adjudication has been withdrawn or reversed.

3 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if the
4 licensing authority has reasonable cause to believe that the applicant or permit holder **h** ~~[cannot~~
5 ~~satisfactorily demonstrate]~~ **HAS NOT DEMONSTRATED** **h** good character as set forth in Subsection (2)
5a of this section, or has been

6 or is a danger to self or others as demonstrated by evidence including, but not limited to:

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

8 (ii) past participation in incidents involving unlawful violence or threats of unlawful
9 violence; or

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

11 (b) In determining whether the applicant **h** OR PERMIT HOLDER **h** has been or is a danger to
11a self or others, the
12 division may inspect:

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

14 and

15 (ii) juvenile court records as provided in Section 78-3a-206.

16 (c) (i) If a person granted a permit under this part has been charged with a crime of
17 violence in Utah or any other state, the division shall suspend the permit.

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

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

23 (5) In assessing good character under Subsection (2), the licensing authority shall consider
24 mitigating circumstances.

25 (6) The licensing authority shall also require the applicant to provide:

26 (a) letters of character reference;

27 (b) two recent dated photographs;

28 (c) two sets of fingerprints;

29 (d) a five-year employment history;

30 (e) a five-year residential history; and

31 (f) evidence of general familiarity with the types of firearms to be concealed as defined

1 in Subsection (7).

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

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

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

7 (b) Evidence of general familiarity with the types of firearms to be concealed may be
8 satisfied by one of the following:

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

11 (ii) certification of general familiarity by a person who has been approved by the division,
12 which may include a [~~law enforcement~~] peace officer, military or civilian firearms instructor, or
13 hunter safety instructor; or

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

16 (8) In issuing a permit under this part, the licensing authority is not vicariously liable for
17 damages caused by the permit holder.

18 (9) If any person knowingly and willfully provides false information on an application
19 filed under this part, he is guilty of a class B misdemeanor, and his application may be denied, or
20 his permit may be suspended or revoked.

21 (10) (a) In the event of a denial, suspension, or revocation by the agency, the applicant

21a **h OR PERMIT HOLDER h**

22 may file a petition for review with the board within 60 days from the date the denial, suspension,
23 or revocation is received by the applicant **h OR PERMIT HOLDER h** by certified mail, return receipt
23a requested.

24 (b) The denial **h , SUSPENSION, OR REVOCATION h** of a permit shall be in writing and shall
24a include the general reasons for the
25 action.

26 (c) If an applicant **h OR PERMIT HOLDER h** appeals his denial **h , SUSPENSION, OR**
26a **REVOCATION h** to the review board, the applicant **h OR PERMIT HOLDER h** may have access

27 to the evidence upon which the denial is based in accordance with Title 63, Chapter 2, Government
28 Records Access and Management Act.

29 (d) On appeal to the board, the agency shall have the burden of proof by a preponderance
30 of the evidence.

31 (e) Upon a ruling by the board on the appeal of a denial, **h SUSPENSION, OR REVOCATION h**
31a the division shall issue a final

1 order within 30 days stating the board's decision. The final order shall be in the form prescribed
2 by Subsection 63-46b-5(1)(i). The final order is final agency action for purposes of judicial review
3 under Section 63-46b-15.

4 ~~[(12)]~~ (11) The commissioner may make rules in accordance with Title 63, Chapter 46a,
5 Utah Administrative Rulemaking Act, necessary to administer this chapter.

Legislative Review Note
as of 12-17-97 12:49 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel