

LAW ENFORCEMENT OFFICER AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael R. Styler

AN ACT RELATING TO PUBLIC SAFETY; PROVIDING A WAIVER OF SPECIFIC REQUIREMENTS FOR A CONCEALED FIREARM PERMIT UNDER CERTAIN CIRCUMSTANCES; WAIVING THE INITIAL APPLICATION FEE FOR A LAW ENFORCEMENT OFFICER TO OBTAIN A CONCEALED FIREARM PERMIT; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

53-5-704, as last amended by Chapters 13, 187 and 404, Laws of Utah 1998

53-5-707, as last amended by Chapter 115, Laws of Utah 1996

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

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

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

(1) The division or its designated agent shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application and upon proof that the person applying is of good character. The permit is valid throughout the state, without restriction except as provided by Section 53-5-710:

- (a) for two years; or
- (b) for five years for permits issued or renewed on or after May 1, 1998.
- (2) An applicant satisfactorily demonstrates good character if he:
 - (a) has not been convicted of a felony;
 - (b) has not been convicted of any crime of violence;
 - (c) has not been convicted of any offenses involving the use of alcohol;
 - (d) has not been convicted of any offense involving the unlawful use of narcotics or other controlled substances;

- (e) has not been convicted of any offenses involving moral turpitude;
- (f) has not been convicted of any offense involving domestic violence;
- (g) has not been adjudicated by a court of a state or of the United States as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
- (h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to Section 76-10-503 and federal law.

(3) (a) The division may deny, suspend, or revoke a concealed firearm permit if the licensing authority has reasonable cause to believe that the applicant has been or is a danger to self or others as demonstrated by evidence including, but not limited to:

- (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
- (ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or
- (iii) conviction of any offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) In determining whether the applicant has been or is a danger to self or others, the division may inspect:

- (i) expunged records of arrests and convictions of adults as provided in Section 77-18-15; and
- (ii) juvenile court records as provided in Section 78-3a-206.

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

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

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

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

(6) [The] Except as provided in Subsection (7), the licensing authority shall also require the

applicant to provide:

- (a) letters of character reference;
- (b) two recent dated photographs;
- (c) two sets of fingerprints;
- (d) a five-year employment history;
- (e) a five-year residential history; and
- (f) evidence of general familiarity with the types of firearms to be concealed as defined in

Subsection ~~[(7)]~~ (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the items required by Subsections (6)(a), (d), (e), and (f).

~~[(7)]~~ (8) (a) General familiarity with the types of firearms to be concealed includes training in:

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

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

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

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

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

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

~~[(8)]~~ (9) In issuing a permit under this part, the licensing authority is not vicariously liable for damages caused by the permit holder.

~~[(9)]~~ (10) If any person knowingly and willfully provides false information on an application filed under this part, he is guilty of a class B misdemeanor, and his application may be denied, or his permit may be suspended or revoked.

~~[(10)]~~ (11) (a) In the event of a denial, suspension, or revocation by the agency, the applicant may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant by certified mail, return receipt requested.

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

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

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

(e) Upon a ruling by the board on the appeal of a denial, the division shall issue a final order within 30 days stating the board's decision. The final order shall be in the form prescribed by Subsection 63-46b-5(1)(i). The final order is final agency action for purposes of judicial review under Section 63-46b-15.

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

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

53-5-707. Permit -- Fee -- Waiver -- Disposition.

(1) Each applicant for a permit shall pay a fee of \$35 at the time of filing his application. The initial fee shall be waived for an applicant who is a law enforcement officer under Section 53-13-103.

(2) The renewal fee for the permit is \$5.

(3) All fees shall promptly be deposited in the state treasury and credited to the General Fund.

(4) The division may collect any fees charged by an outside agency for additional services

required by statute as a prerequisite for issuance of a permit. The division shall promptly forward any fees collected to the appropriate agency.