

**Senator Michael G. Waddoups** proposes to substitute the following bill:

**AMENDMENTS FOR DANGEROUS WEAPONS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael G. Waddoups**

AN ACT RELATING TO PUBLIC SAFETY AND THE JUDICIAL CODE; PROVIDING CROSS REFERENCES TO RESTRICTED AREAS; AUTHORIZING RULEMAKING AUTHORITY TO THE OLYMPIC LAW ENFORCEMENT COMMANDER TO DESIGNATE SECURE AREAS AT OLYMPIC VENUES, PROVIDE NOTICE OF WEAPONS AND EXPLOSIVE RESTRICTIONS; RESTRICTING WEAPONS, INCLUDING CONCEALED WEAPONS, AND EXPLOSIVES IN SECURE AREAS AT OLYMPIC VENUES; ENACTING PROVISIONS REGARDING LIABILITY FOR CERTAIN INJURIES IN OLYMPIC VENUES; PRESCRIBING PENALTIES; PROVIDING A REPEALER FOR THE OLYMPIC PROVISIONS; AMENDING WHEN THE LAW ENFORCEMENT AND TECHNICAL SERVICES DIVISION MAY TAKE ACTION REGARDING A CONCEALED FIREARM PERMIT; PROVIDING DEFINITIONS; RESTRICTING FIREARMS IN HOUSES OF WORSHIP AND IN PRIVATE RESIDENCES IN CERTAIN CIRCUMSTANCES; PRESCRIBING PENALTIES; 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

**53-5-710**, as enacted by Chapter 117, Laws of Utah 1997

**76-10-501**, as last amended by Chapter 263, Laws of Utah 1998

ENACTS:

**53-12-301.1**, Utah Code Annotated 1953

**63-55b-153**, Utah Code Annotated 1953

26           **63-55b-176**, Utah Code Annotated 1953

27           **76-10-530**, Utah Code Annotated 1953

28           **76-10-531**, Utah Code Annotated 1953

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

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

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

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

37           (a) for two years; or

38           (b) for five years for permits issued or renewed on or after May 1, 1998.

39           (2) An applicant satisfactorily demonstrates good character if he:

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

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

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

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

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

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

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

49           (h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to  
50 Section 76-10-503 and federal law.

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

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

55           (ii) past participation in incidents involving unlawful violence or threats of unlawful  
56 violence; or

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

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

60 [~~(b)~~] (c) In determining whether the applicant has been or is a danger to self or others, the  
61 division may inspect:

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

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

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

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

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

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

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

75 (a) letters of character reference;

76 (b) two recent dated photographs;

77 (c) two sets of fingerprints;

78 (d) a five-year employment history;

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

80 (f) evidence of general familiarity with the types of firearms to be concealed as defined in  
81 Subsection (7).

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

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

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

87 (b) Evidence of general familiarity with the types of firearms to be concealed may be

88 satisfied by one of the following:

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

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

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

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

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

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

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

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

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

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

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

117 Section 2. Section **53-5-710** is amended to read:

118 **53-5-710. Cross-references to concealed firearm permit restrictions.**

119 A person with a permit to carry a concealed firearm may not carry a concealed firearm in  
120 the following locations:

121 (1) any secure area prescribed in Section 76-10-523.5 in which firearms are prohibited and  
122 notice of the prohibition posted; [and]

123 (2) in any airport secure area as provided in Section 76-10-529;

124 (3) in any house of worship or in any private residence where dangerous weapons are  
125 prohibited as provided in Section 76-10-530; or

126 (4) at an Olympic venue secure area in violation of Section 76-10-531.

127 Section 3. Section **53-12-301.1** is enacted to read:

128 **53-12-301.1. Olympic venue secure areas -- Rulemaking authority ---- Notice --**  
129 **Responsibilities -- Liability.**

130 (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
131 Olympic law enforcement commander designated in Section 53-12-301 shall make rules:

132 (a) designating the locations of secure areas within Olympic venues where a firearm,  
133 ammunition, dangerous weapon, or explosive, chemical, or incendiary device is prohibited  
134 between January 25, 2002, and April 1, 2002;

135 (b) providing notice that a reasonable person would understand regarding:

136 (i) the locations of the Olympic venue secure areas where the items in Subsection (1)(a)  
137 are prohibited;

138 (ii) the locations of public and private access entrances and exits to the Olympic venue  
139 secure areas; and

140 (iii) the locations of secure weapons storage areas;

141 (iv) the penalty for violating Section 76-10-531, restriction of dangerous weapons in  
142 Olympic venue secure areas; and

143 (c) designating persons authorized to carry weapons into Olympic venues, including those  
144 persons exempted by Subsection 76-10-523(1).

145 (2) The notice in Subsection (1)(b) shall include:

146 (a) written notice provided to a person at the time the person receives tickets to events at  
147 Olympic venue secure areas; and

148 (b) at least one notice prominently displayed at each entrance to every Olympic venue  
149 secure area in which a dangerous weapon or explosive is prohibited.

150           (3) The Olympic law enforcement commander shall:  
151           (a) use all reasonable means, including mechanical, electronic, x-ray, or any other device  
152 to detect dangerous weapons or explosives concealed in or upon the person of any individual  
153 attempting to enter an Olympic venue secure area;  
154           (b) may provide secure weapons storage areas so that persons may store their weapons  
155 prior to entering an Olympic venue secure area; and  
156           (c) shall provide instructions to personnel operating an Olympic venue secure area that,  
157 upon discovery of a firearm possessed by a person licensed to carry a concealed firearm, the  
158 personnel may:  
159           (i) require the person to deliver the firearm to a secure weapons storage area permitted by  
160 Subsection (3)(b); or  
161           (ii) require the person to exit the Olympic venue secure area.  
162           (4) The state shall assume liability for any injury where an individual can establish that:  
163           (a) if a person licensed to carry a concealed firearm had been able to access the concealed  
164 firearm the injury would not have occurred to the individual or others; and  
165           (b) the individual suffered damages as a consequence.  
166           (5) Any risk of injury assumed under Subsection (4) shall first be covered by any insurance  
167 of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002, and, to the extent  
168 there is a risk not covered by that insurance, the Office of Risk Management shall provide for  
169 additional coverage.  
170           Section 4. Section **63-55b-153** is enacted to read:  
171           **63-55b-153. Repeal date -- Title 53.**  
172           (1) Subsection 53-5-710(4) pertaining to restrictions at Olympic venue secure areas is  
173 repealed April 1, 2002.  
174           (2) Section 53-12-301.1 is repealed April 1, 2002.  
175           Section 5. Section **63-55b-176** is enacted to read:  
176           **63-55b-176. Repeal date -- Title 76.**  
177           Section 76-10-531 is repealed April 1, 2002.  
178           Section 6. Section **76-10-501** is amended to read:  
179           **76-10-501. Definitions.**  
180           (1) (a) The individual right to keep and bear arms being a constitutionally protected right,

181 the Legislature finds the need to provide uniform laws throughout the state. Except as specifically  
182 provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

183 (i) prohibited from owning, possessing, purchasing, transporting, or keeping any firearm  
184 at his place of residence, property, business, or in any vehicle under his control; or

185 (ii) required to have a permit or license to purchase, own, possess, transport, or keep a  
186 firearm.

187 (b) This part is uniformly applicable throughout this state and in all its political  
188 subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state  
189 except where the Legislature specifically delegates responsibility to local authorities. Unless  
190 specifically authorized by the Legislature by statute, a local authority may not enact or enforce any  
191 ordinance, regulation, or rule pertaining to firearms.

192 (2) As used in this part:

193 (a) (i) "Concealed dangerous weapon" means a dangerous weapon that is covered, hidden,  
194 or secreted in a manner that the public would not be aware of its presence and is readily accessible  
195 for immediate use.

196 (ii) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a  
197 firearm which is unloaded and is securely encased.

198 (b) "Crime of violence" means aggravated murder, murder, manslaughter, rape, mayhem,  
199 kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of  
200 violence, assault with a dangerous weapon, assault with intent to commit any offense punishable  
201 by imprisonment for more than one year, arson punishable by imprisonment for more than one  
202 year, or an attempt to commit any of these offenses.

203 (c) "Criminal history background check" means a criminal background check conducted  
204 by a licensed firearms dealer on every purchaser of a handgun through the division or the local law  
205 enforcement agency where the firearms dealer conducts business.

206 (d) "Dangerous weapon" means any item that in the manner of its use or intended use is  
207 capable of causing death or serious bodily injury. The following factors shall be used in  
208 determining whether a knife, or any other item, object, or thing not commonly known as a  
209 dangerous weapon is a dangerous weapon:

210 (i) the character of the instrument, object, or thing;

211 (ii) the character of the wound produced, if any;

212 (iii) the manner in which the instrument, object, or thing was used; and  
213 (iv) the other lawful purposes for which the instrument, object, or thing may be used.

214 (e) "Dealer" means every person who is licensed under crimes and criminal procedure, 18  
215 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring a handgun,  
216 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

217 (f) "Division" means the Criminal Investigations and Technical Services Division of the  
218 Department of Public Safety, created in Section 53-10-103.

219 (g) "Enter" means intrusion of the entire body.

220 [(g)] (h) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or  
221 sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled  
222 a projectile by action of an explosive.

223 [(i)] (i) "Firearms transaction record form" means a form created by the division to be  
224 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

225 [(h)] (j) "Fully automatic weapon" means any firearm which fires, is designed to fire, or  
226 can be readily restored to fire, automatically more than one shot without manual reloading by a  
227 single function of the trigger.

228 [(j)] (k) "Handgun" means a pistol, revolver, or other firearm of any description, loaded  
229 or unloaded, from which any shot, bullet, or other missile can be discharged, the length of which,  
230 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

231 (l) "House of worship" means a church, temple, synagogue, mosque, or other building set  
232 apart primarily for the purpose of worship in which religious services are held and the main body  
233 of which is kept for that use and not put to any other use inconsistent with its primary purpose.

234 [(k)] (m) "Prohibited area" means any place where it is unlawful to discharge a firearm.

235 [(h)] (n) "Readily accessible for immediate use" means that a firearm or other dangerous  
236 weapon is carried on the person or within such close proximity and in such a manner that it can  
237 be retrieved and used as readily as if carried on the person.

238 (o) "Residence" means an improvement to real property used or occupied as a primary or  
239 secondary residence.

240 [(m)] (p) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or  
241 barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer  
242 than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration,



243 modification, or otherwise, if the weapon as modified has an overall length of fewer than 26  
244 inches.

245 [(n)] (g) "Securely encased" means not readily accessible for immediate use, such as held  
246 in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage  
247 area of a motor vehicle, not including a glove box or console box.

248 Section 7. Section **76-10-530** is enacted to read:

249 **76-10-530. Trespass with a firearm in a house of worship or private residence.**

250 (1) A person, including a person licensed to carry a concealed firearm pursuant to Title 53,  
251 Chapter 5, Part 7, Concealed Weapon Act, after having received notice as provided in Subsection  
252 (2) that firearms are prohibited, may not knowingly and intentionally:

253 (a) transport a firearm into:

254 (i) a house of worship; or

255 (ii) a private residence; or

256 (b) while in possession of a firearm, enter or remain in:

257 (i) a house of worship; or

258 (ii) a private residence.

259 (2) Notice that firearms are prohibited may be made by:

260 (a) personal communication to the actor by:

261 (i) the church or organization operating the house of worship;

262 (ii) the owner, lessee, or person with lawful right of possession of the private residence;

263 or

264 (iii) a person with authority to act for the person or entity in Subsections (2)(a)(i) and (ii);

265 (b) posting of signs reasonably likely to come to the attention of persons entering the house  
266 of worship or private residence.

267 (3) A violation of this section is an infraction.

268 Section 8. Section **76-10-531** is enacted to read:

269 **76-10-531. Restricting dangerous weapons and explosives in Olympic venue secure**  
270 **areas -- Penalty.**

271 (1) A person, including a person licensed to carry a concealed firearm pursuant to Title 53,  
272 Chapter 5, Part 7, Concealed Weapon Act, may not knowingly or intentionally transport into an  
273 Olympic venue secure area, designated by rule pursuant to Section 53-12-301.1:

274           (a) a firearm, ammunition, or dangerous weapon; or  
275           (b) an explosive, chemical, or incendiary device, as those terms are defined in Section  
276 76-10-306.  
277           (2) A violation of this section is:  
278           (a) a class B misdemeanor if the violation is with a firearm, ammunition, or dangerous  
279 weapon; or  
280           (b) a first degree felony if the violation is with an explosive, chemical, or incendiary  
281 device.  
282           (3) It is a defense to any prosecution under this section that the accused, in committing the  
283 act made criminal by this section, acted in conformity with the rules authorized by Section  
284 53-12-301.1.