

Representative Kevin S. Garn proposes to substitute the following bill:

1 **AMENDING REQUIREMENTS FOR CONCEALED FIREARMS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gary F. Cox**

5 AN ACT RELATING TO PUBLIC SAFETY; AMENDING REQUIREMENTS FOR A
6 CONCEALED FIREARM PERMIT AND FOR INSTRUCTOR CERTIFICATION; MODIFYING
7 FEES; AND MAKING CONFORMING AMENDMENTS.

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

9 AMENDS:

10 **53-5-704**, as last amended by Chapters 120 and 366, Laws of Utah 1999

11 **53-5-706**, as last amended by Chapter 12, Laws of Utah 1994

12 **53-5-707**, as last amended by Chapters 120 and 227, Laws of Utah 1999

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

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

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

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

22 (a) for two years; or

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

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

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

- 26 (b) has not been convicted of any crime of violence;
- 27 (c) has not been convicted of any offenses involving the use of alcohol;
- 28 (d) has not been convicted of any offense involving the unlawful use of narcotics or other
29 controlled substances;
- 30 (e) has not been convicted of any offenses involving moral turpitude;
- 31 (f) has not been convicted of any offense involving domestic violence;
- 32 (g) has not been adjudicated by a court of a state or of the United States as mentally
33 incompetent, unless the adjudication has been withdrawn or reversed; and
- 34 (h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to
35 Section 76-10-503 and federal law.

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

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

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

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

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

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

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

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

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

59 (6) Except as provided in Subsection (7), the licensing authority shall also require the
60 applicant to provide:

61 (a) address of applicant's permanent residence;

62 ~~[(a)] (b) letters of character reference;~~

63 ~~[(b)] (c) two recent dated photographs;~~

64 ~~[(c)] (d) two sets of fingerprints;~~

65 ~~[(d)] (e) a five-year employment history;~~

66 ~~[(e)] (f) a five-year residential history; and~~

67 ~~[(f)] (g) evidence of general familiarity with the types of firearms to be concealed as~~
68 ~~defined in Subsection (8).~~

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

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

73 ~~[(i) the safe loading, unloading, storage, and carrying of the types of firearms to be~~
74 ~~concealed; and]~~

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

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

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

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

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

86 (8) (a) Evidence of general familiarity with the types of firearms to be concealed shall be
87 satisfied by completion of a course of instruction conducted by a person who has been certified by

88 the division as a Utah concealed firearms instructor.

89 (b) An applicant for renewal of a concealed firearm permit shall have completed not less
90 than four hours of continuing instruction.

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

92 (a) be at least 21 years of age;

93 (b) be a resident of the state of Utah;

94 (c) be of good character pursuant to the criteria listed in Subsection (2);

95 (d) provide two recent dated photographs;

96 (e) provide two sets of fingerprints;

97 (f) provide evidence of completion of the Utah concealed firearms instructor course as set
98 forth in Subsection (9)(g); and

99 (g) have completed a training program of not less than 40 hours established by the
100 division.

101 (10) Each certified concealed firearms instructor shall provide for his students the required
102 course of instruction outline provided by the division which shall not be less than eight hours and
103 include training in:

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

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

108 (11) Certification as a concealed firearms instructor is valid for a period of five years.

109 (12) An applicant for certification renewal as a concealed firearms instructor shall have
110 completed not less than eight hours of continuing instruction.

111 (13) All concealed firearms instructors are required to maintain records as required by the
112 division.

113 (14) The division may deny, suspend, or revoke the certification of a concealed firearms
114 instructor if the licensing authority has reason to believe the applicant has:

115 (a) failed to maintain good character pursuant to the criteria listed in Subsection (2);

116 (b) failed to teach from the required course of instruction;

117 (c) failed to maintain records as set forth in Subsection (13); or

118 (d) knowingly and willfully provided false information to the division.

119 (15) A concealed firearms instructor has the same appeal rights as set forth in Subsection
120 (19).

121 (16) The division shall issue a photo identification card to each certified concealed
122 firearms instructor.

123 ~~[(9)]~~ (17) In issuing a permit under this part, the licensing authority ~~[is]~~ and the certified
124 Utah concealed firearms instructor are not vicariously liable for damages caused by the permit
125 holder.

126 ~~[(10)]~~ (18) If any person knowingly and willfully provides false information on an
127 application filed under this part, he is guilty of a class B misdemeanor, and his application may be
128 denied, or his permit may be suspended or revoked.

129 ~~[(11)]~~ (19) (a) In the event of a denial, suspension, or revocation by the agency, the
130 applicant may file a petition for review with the board within 60 days from the date the denial,
131 suspension, or revocation is received by the applicant by certified mail, return receipt requested.

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

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

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

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

143 ~~[(12)]~~ (20) The commissioner may make rules in accordance with Title 63, Chapter 46a,
144 Utah Administrative Rulemaking Act, necessary to administer this chapter.

145 Section 2. Section **53-5-706** is amended to read:

146 **53-5-706. Permit -- Fingerprints transmitted to division -- Report from division.**

147 (1) (a) Except as provided in Subsection (2), the fingerprints of each applicant for
148 concealed firearm permit and Utah concealed firearm instructor certification shall be taken on two
149 copies of forms prescribed by the division and shall be forwarded to the division.

150 (b) Upon receipt of the fingerprints and the fee prescribed in Section 53-5-707, the division
151 shall conduct a search of its files for criminal history information pertaining to the applicant, and
152 shall request the Federal Bureau of Investigation to conduct a similar search through its files.

153 (c) The division shall promptly furnish the forwarding licensing authority a report of all
154 data and information pertaining to any applicant of which there is a record in its office, or of which
155 a record is found in the files of the Federal Bureau of Investigation.

156 (d) A permit may not be issued by any licensing authority until receipt of the report from
157 the division.

158 (2) If the permit applicant has previously applied to the same licensing authority for a
159 permit to carry concealed firearms and the applicant's fingerprints and fee have been previously
160 forwarded within one year to the division, the licensing authority shall note the previous
161 identification numbers and other data which would provide positive identification in the files of
162 the division on the copy of any subsequent permit submitted to the division in accordance with this
163 section, and no additional application form, fingerprints, or fee are required.

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

165 **53-5-707. Permit -- Fees -- Disposition.**

166 (1) Each applicant shall, at the time of filing an application, pay a fee for:

167 (a) a concealed firearm permit [shall pay a fee of]:

168 (i) \$35 [at the time of filing an application] for a resident of the state; or

169 (ii) \$60 for a person whose permanent residence is outside of this state; or

170 (b) \$35 for a concealed firearm instructor certification.

171 (2) The initial fee shall be waived for an applicant who is a law enforcement officer under
172 Section 53-13-103.

173 [~~2~~] (3) The renewal fee for [the]:

174 (a) a concealed firearm permit is:

175 (i) \$10 for a resident of the state; or

176 (ii) \$25 for a person whose permanent residence is outside of this state; or

177 (b) \$10 for a concealed firearm instructor certification.

178 [~~3~~] (4) The replacement fee for [the] a concealed firearm permit or a concealed firearm
179 instructor certification is \$10.

180 [~~4~~] (5) The late fee for [the] a renewal of a concealed firearm permit or a concealed

181 firearm instructor certification is \$7.50.

182 [~~(5)~~] (6) All fees shall promptly be deposited in the state treasury and credited to the
183 General Fund.

184 [~~(6)~~] (7) The division may collect any fees charged by an outside agency for additional
185 services required by statute as a prerequisite for issuance of a permit. The division shall promptly
186 forward any fees collected to the appropriate agency.