

CARRYING A FIREARM

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Thompson

This act modifies provisions relating to firearms. The act eliminates penalties for carrying a concealed dangerous weapon without a permit. The act allows a person to carry a loaded firearm in or on a vehicle or on any public street. The act makes conforming amendments and technical changes.

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

AMENDS:

53-12-301.1, as enacted by Chapter 366, Laws of Utah 1999

58-63-307, as enacted by Chapter 215, Laws of Utah 1995

76-10-504, as last amended by Chapter 303, Laws of Utah 2000

76-10-505.5, as last amended by Chapters 10 and 289, Laws of Utah 1997

76-10-523, as last amended by Chapters 57 and 144, Laws of Utah 1997

REPEALS:

76-10-505, as last amended by Chapter 328, Laws of Utah 1990

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

Section 1. Section **53-12-301.1** is amended to read:

53-12-301.1. Olympic venue secure areas -- Restrictions -- Rulemaking authority ----

Notice -- Responsibilities -- Liability.

(1) For purposes of this section and Section 76-10-531, "Olympic venues" means a specific location:

(a) that is secured by a perimeter and public access is controlled; and

(b) where spectators view Olympic events; or

(c) designated for media or official athlete housing not open to the general public.

(2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the



28 Olympic law enforcement commander designated in Section 53-12-301 shall make rules:

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

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

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

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

36 and

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

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

40 (c) designating persons authorized to carry weapons into Olympic venues, including those
41 persons exempted by [~~Subsection~~] Section 76-10-523[~~(1)~~].

42 (3) The notice in Subsection (1)(b) shall include:

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

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

47 (4) The Olympic law enforcement commander:

48 (a) shall use reasonable means, which may include mechanical, electronic, x-ray, or any
49 other device to detect dangerous weapons or explosives concealed in or upon the person of any
50 individual attempting to enter an Olympic venue secure area;

51 (b) may provide secure weapons storage areas so that persons may store their weapons
52 prior to entering an Olympic venue secure area; and

53 (c) shall provide instructions to personnel operating an Olympic venue secure area that,
54 upon discovery of a firearm possessed by a person licensed to carry a concealed firearm, the
55 personnel may:

56 (i) require the person to deliver the firearm to a secure weapons storage area permitted by
57 Subsection (3)(b); or

58 (ii) require the person to exit the Olympic venue secure area.

59 (5) A cause of action may be maintained against the state for any injury where an
60 individual can establish by clear and convincing evidence that:

61 (a) if a person licensed to carry a concealed firearm had been able to access the concealed
62 firearm the injury would not have occurred to that individual or others; and

63 (b) the individual suffered damages as a consequence.

64 (6) Nothing in Subsection (5) modifies or amends Title 63, Chapter 30, Governmental
65 Immunity Act.

66 Section 2. Section **58-63-307** is amended to read:

67 **58-63-307. Use of firearms.**

68 (1) An individual licensed as an armed private security officer may carry a firearm only
69 while acting as an armed private security officer in accordance with this chapter and rules made
70 under this chapter.

71 (2) An individual licensed as an armed private security officer is exempt from the
72 provisions of [~~Sections 76-10-505 and~~] Section 53-5-704 while acting as an armed private security
73 officer in accordance with this chapter and rules made under this chapter.

74 Section 3. Section **76-10-504** is amended to read:

75 **76-10-504. Carrying concealed dangerous weapon -- Penalties.**

76 [~~(1) Except as provided in Section 76-10-503 and in Subsections (2) and (3):~~]

77 [~~(a) a person who carries a concealed dangerous weapon, as defined in Section 76-10-501,
78 which is not a firearm on his person or one that is readily accessible for immediate use which is
79 not securely encased, as defined in this part, in a place other than his residence, property, or
80 business under his control is guilty of a class B misdemeanor; and]~~

81 [~~(b) a person without a valid concealed firearm permit who carries a concealed dangerous
82 weapon which is a firearm and that contains no ammunition is guilty of a class B misdemeanor,
83 but if the firearm contains ammunition the person is guilty of a class A misdemeanor.~~]

84 [~~(2)~~] (1) A person who carries concealed a sawed-off shotgun or a sawed-off rifle is guilty
85 of a second degree felony.

86 [~~(3)~~] (2) If [~~the~~] a person carries a concealed firearm [~~is used~~] and the concealed firearm
87 is used in the commission of a violent felony as defined in Section 76-3-203.5, and the person is
88 a party to the offense, the person is guilty of a second degree felony.

89 [~~(4)~~] (3) Nothing in [~~Subsection (1)~~] this section shall prohibit a person engaged in the

90 lawful taking of protected or unprotected wildlife as defined in Title 23, Wildlife Resources Code,
91 from carrying a concealed weapon or a concealed firearm with a barrel length of four inches or
92 greater as long as the taking of wildlife does not occur:

93 (a) within the limits of a municipality in violation of that municipality's ordinances; or

94 (b) upon the highways of the state as defined in Section 41-6-1.

95 Section 4. Section **76-10-505.5** is amended to read:

96 **76-10-505.5. Possession of a dangerous weapon, firearm, or sawed-off shotgun on or**
97 **about school premises -- Penalties.**

98 (1) A person may not possess any dangerous weapon, firearm, or sawed-off shotgun, as
99 those terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable
100 cause to believe, is on or about school premises.

101 (2) (a) Possession of a dangerous weapon on or about school premises is a class B
102 misdemeanor.

103 (b) Possession of a firearm or sawed-off shotgun on or about school premises is a class A
104 misdemeanor.

105 (3) This section applies to any person, except persons authorized to possess a firearm as
106 provided under Sections 53-5-704, 53-5-705, 53A-3-502, 76-10-511, 76-10-523, [~~Subsection~~
107 ~~76-10-504(2);~~] and as otherwise authorized by law.

108 (4) This section does not prohibit prosecution of a more serious weapons offense that may
109 occur on or about school premises.

110 Section 5. Section **76-10-523** is amended to read:

111 **76-10-523. Persons exempt from weapons laws.**

112 [~~(1)~~] This part and Title 53, Chapter 5, Part 7, Concealed Weapon Act, do not apply to any
113 of the following:

114 [~~(a)~~] (1) a United States marshal while engaged in the performance of his official duties;

115 [~~(b)~~] (2) a federal official required to carry a firearm while engaged in the performance of
116 his official duties;

117 [~~(c)~~] (3) a peace officer of this or any other jurisdiction while engaged in the performance
118 of his official duties;

119 [~~(d)~~] (4) a law enforcement official as defined and qualified under Section 53-5-711;

120 [~~(e)~~] (5) a judge as defined and qualified in Section 53-5-711;

121 [(f)] (6) a common carrier while engaged in the regular and ordinary transport of firearms
122 as merchandise; or

123 [(g)] (7) a nonresident traveling in or through the state, provided that any firearm is:

124 [(i)] (a) unloaded; and

125 [(ii)] (b) securely encased as defined in Section 76-10-501.

126 ~~[(2) The provisions of Subsections 76-10-504(1)(a), (1)(b), and Section 76-10-505 do not~~
127 ~~apply to any person to whom a permit to carry a concealed firearm has been issued:]~~

128 ~~[(a) pursuant to Section 53-5-704; or]~~

129 ~~[(b) by another state whose requirements for issuance of a concealed firearm permit have~~
130 ~~been determined annually by the Department of Public Safety to meet or exceed the requirements~~
131 ~~for issuance of a concealed firearm permit in this state.]~~

132 Section 6. **Repealer.**

133 This act repeals:

134 Section **76-10-505, Carrying loaded firearm in vehicle or on street.**

Legislative Review Note
as of 2-15-01 12:06 PM

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

Office of Legislative Research and General Counsel