

CONCEALED FIREARM PERMIT AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott K. Jenkins

This act modifies provisions related to the issuance of concealed firearm permits by removing the mandatory training requirement to qualify for a permit and making certain technical changes.

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

AMENDS:

53-5-704, as last amended by Chapter 107, Laws of Utah 2000

53-5-711, as last amended by Chapter 13, Laws of Utah 1998

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) (a) 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.

(b) 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~~].

(c) A permit shall be issued or renewed for a five-year period.

(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adjudicated by a court of a state or of the United States as mentally incompetent, unless the adjudication has been withdrawn or reversed; and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) The division may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) 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.

(d) (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) Except as provided in Subsection (7), the licensing authority shall also require the

59 applicant to provide:

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

61 (b) letters of character reference;

62 (c) two recent dated photographs;

63 (d) two sets of fingerprints;

64 (e) a five-year employment history; and

65 (f) a five-year residential history[; ~~and~~].

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

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

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

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

74 [~~(ii) current laws defining lawful use of a firearm by a private citizen, including lawful~~
75 ~~self-defense, use of force by a private citizen including use of deadly force, transportation, and~~
76 ~~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 certified 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 [~~(9) An applicant for certification as a Utah concealed firearms instructor shall:~~]

87 [~~(a) be at least 21 years of age; and]~~

88 [~~(b) be currently eligible to possess a firearm under Section 76-10-503 and federal law.]~~

89 [~~(10) Each certified concealed firearms instructor shall provide for his students the~~

required course of instruction outline approved by the division.]

~~[(11) All concealed firearms instructors are required to provide a signed certificate to persons completing the course of instruction, which certificate shall be provided by the applicant to the division.]~~

~~[(12) The division may deny, suspend, or revoke the certification of a concealed firearms instructor if the licensing authority has reason to believe the applicant has:]~~

~~[(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or]~~

~~[(b) knowingly and willfully provided false information to the division.]~~

~~[(13) A concealed firearms instructor has the same appeal rights as set forth in Subsection (16).]~~

~~[(14)]~~ (8) In issuing a permit under this part, the licensing authority § :

(a) SHALL PROVIDE THE PERMIT HOLDER WITH WRITTEN OR ELECTRONIC INFORMATION ON THE RIGHTS AND RESPONSIBILITIES OF CARRYING A CONCEALED FIREARM FOR LAWFUL SELF DEFENSE; AND

(b) § is not vicariously liable for damages caused by the permit holder.

~~[(15)]~~ (9) 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.

~~[(16)]~~ (10) (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) (i) 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.

(ii) The final order shall be in the form prescribed by Subsection 63-46b-5(1)(i).

(iii) The final order is final agency action for purposes of judicial review under Section 63-46b-15.

~~[(17)]~~ (11) The commissioner may make rules in accordance with Title 63, Chapter 46a,

Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 2. Section **53-5-711** is amended to read:

53-5-711. Law enforcement officials and judges -- Training requirements --

Qualification -- Revocation.

(1) For purposes of this section and Section 76-10-523:

(a) "Judge" means a judge or justice of a court of record or court not of record, but does not include a judge pro tem or senior judge.

(b) "Law enforcement official of this state" means:

(i) a member of the Board of Pardons and Paroles;

(ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;

(iii) the attorney general;

(iv) an assistant attorney general designated as a criminal prosecutor; or

(v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

(2) To qualify for the exemptions enumerated in Section 76-10-523, a law enforcement official or judge shall complete the following training requirements:

(a) meet the requirements of Sections [~~53-5-704,~~] 53-5-706[;] and 53-5-707; and

(b) successfully complete an additional course of training as established by the commissioner of public safety designed to assist them while carrying out their official law enforcement and judicial duties as agents for the state or its political subdivisions.

(3) Annual requalification requirements for law enforcement officials and judges shall be established by the:

(a) Board of Pardons and Paroles by rule for its members;

(b) Judicial Council by rule for judges; and

(c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.

(4) The division may:

(a) issue a certificate of qualification to a judge or law enforcement official who has completed the requirements of Subsection (1), which certificate of qualification is valid until revoked;

(b) revoke the certificate of qualification of a judge or law enforcement official who fails

152 to meet the annual requalification criteria established pursuant to Subsection (3); and
153 (c) certify instructors for the training requirements of this section.

Legislative Review Note
as of 1-11-02 10:05 AM

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

Office of Legislative Research and General Counsel