

**PURCHASE OF FIREARMS AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: James A. Ferrin**

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to the purchase of firearms in the Utah Criminal code.

**Highlighted Provisions:**

This bill:

- ▶ makes Utah law consistent with current federal law regarding the purchase of firearms; and
- ▶ provides, consistent with federal law, for only one photo identification rather than two as part of the criminal background check required prior to the purchase of a firearm.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-10-524**, as enacted by Chapter 196, Laws of Utah 1973

**76-10-526**, as last amended by Chapters 90 and 303, Laws of Utah 2000

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

Section 1. Section **76-10-524** is amended to read:

**76-10-524. Purchase of firearms pursuant to federal law.**

This part will allow purchases of firearms and ammunition [~~by residents in contiguous~~

states] pursuant to [~~the Federal Fire Arms Gun Control Act of 1968, section 922, paragraph B, no. 3~~] U.S.C. Title 18 Chapter 44 Sec. 922b(3).

Section 2. Section **76-10-526** is amended to read:

**76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders.**

~~[(1) A criminal background check required by this section shall only apply to the purchase of a handgun until federal law requires the background check to extend to other firearms.]~~

~~[(2) At the time that federal law extends the criminal background check requirement to other firearms, the division shall make rules to extend the background checks required under this section to the other firearms.]~~

~~[(3)]~~ (1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued pursuant to Section 53-5-705.

~~[(4)]~~ (2) To establish personal identification and residence in this state for purposes of this part, a dealer shall require ~~[any person]~~ an individual receiving a firearm to present~~[-(a)]~~ one photo identification on a form issued by a governmental agency of the state~~[-and]~~.

~~[(b) one other documentation of residence which must show an address identical to that shown on the photo identification form.]~~

~~[(5)]~~ (3) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

~~[(6) Any person]~~ (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the division.

(b) The form shall ~~[also]~~ contain the following information:

~~[(a)]~~ (i) the dealer identification number;

~~[(b)]~~ (ii) the name and address of the ~~[person]~~ individual receiving the firearm;

~~[(c)]~~ (iii) the date of birth, height, weight, eye color, and hair color of the ~~[person]~~ individual receiving the firearm; and

~~[(d)]~~ (iv) the Social Security number or any other identification number of the ~~[person]~~ individual receiving the firearm.

~~[(7)]~~ (5) (a) The dealer shall send the form required by Subsection ~~[(6)]~~ (4) to the division immediately upon its completion.

(b) No dealer shall sell or transfer any firearm to ~~[any person]~~ an individual until the dealer has provided the division with the information in Subsection ~~[(6)]~~ (4) and has received approval from the division under Subsection ~~[(9)]~~ (7).

~~[(8)]~~ (6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the division and shall receive approval or denial of the inquiry by telephone or other electronic means.

~~[(9)]~~ (7) When the dealer calls for or requests a criminal history background check, the division shall:

(a) review the criminal history files, including juvenile court records, to determine if the ~~[person]~~ individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the ~~[person]~~ individual is so prohibited; or

(ii) the ~~[person]~~ individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the division, the division shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

~~[(10)]~~ (8) (a) The division shall not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request if the division determines that the ~~[person]~~ individual receiving the gun is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the division shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

~~[(11)]~~ (9) If the criminal history background check discloses information indicating that the ~~[person]~~ individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the division shall inform the law enforcement agency in the jurisdiction where the person resides.

~~[(12)]~~ (10) If ~~[a person]~~ an individual is denied the right to purchase a firearm under this section, the ~~[person]~~ individual may review his criminal history information and may challenge or amend the information as provided in Section 53-10-108.

~~[(13)]~~ (11) The division shall make rules as provided in Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the division pursuant to this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

~~[(14)]~~ (12) (a) (i) All dealers shall collect a criminal history background check fee which is \$7.50.

(ii) This fee remains in effect until changed by the division through the process under Section 63-38-3.2.

(b) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the division by the last day of the month following the sale of a firearm.

(ii) The division shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

~~[(15) A person]~~ (13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter 5, Part 7, Concealed Weapon Act, shall be exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the ~~[person]~~ individual presents his concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the division that the ~~[person's]~~ individual's concealed firearm permit is valid.