

1 **CONCEALED FIREARM PERMIT AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: David L. Hogue**

5

LONG TITLE

6 **General Description:**

7
8 This bill modifies the Concealed Weapon Act by modifying provisions related to the
9 permit required to carry a concealed firearm.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the training requirement to qualify for a permit to carry a concealed
- 13 firearm by including instruction in the firing and securing of a concealed firearm;
- 14 ▶ provides for denial, suspension, or revocation of the certification of a concealed
- 15 firearms instructor who fails to provide required instruction; and
- 16 ▶ makes certain technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **53-5-704**, as last amended by Chapter 107, Laws of Utah 2000

24

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

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

26 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**
27



28 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
29 **suspension, or revocation -- Appeal procedure.**

30 (1) (a) The division or its designated agent shall issue a permit to carry a concealed
31 firearm for lawful self defense to an applicant who is 21 years of age or older:

32 (i) within 60 days after receiving an application ~~[and]~~;

33 (ii) upon proof that the ~~[person applying]~~ applicant is of good character~~[-]; and~~

34 (iii) after the applicant provides evidence of general familiarity with the type of firearm
35 to be concealed pursuant to Subsection (7).

36 (b) The permit is valid throughout the state for five years, without restriction, except as
37 provided by Section 53-5-710~~[-]~~.

38 ~~[(a) for two years; or]~~

39 ~~[(b) for five years for permits issued or renewed on or after May 1, 1998.]~~

40 (2) (a) An applicant satisfactorily demonstrates good character if ~~[he]~~ the applicant:

41 ~~[(a)]~~ (i) has not been convicted of a felony;

42 ~~[(b)]~~ (ii) has not been convicted of ~~[any]~~ a crime of violence;

43 ~~[(c)]~~ (iii) has not been convicted of ~~[any offenses]~~ an offense involving the use of
44 alcohol;

45 ~~[(d)]~~ (iv) has not been convicted of ~~[any]~~ an offense involving the unlawful use of
46 narcotics or other controlled substances;

47 ~~[(e)]~~ (v) has not been convicted of ~~[any offenses]~~ an offense involving moral turpitude;

48 ~~[(f)]~~ (vi) has not been convicted of ~~[any]~~ an offense involving domestic violence;

49 ~~[(g)]~~ (vii) has not been adjudicated by a court of a state or of the United States as
50 mentally incompetent, unless the adjudication has been withdrawn or reversed; and

51 ~~[(h)]~~ (viii) is qualified to purchase and possess a dangerous weapon and a handgun
52 pursuant to Section 76-10-503 and federal law.

53 (b) In assessing good character, the licensing authority shall consider mitigating
54 circumstances.

55 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if ~~[the~~
56 ~~licensing authority]~~ it has reasonable cause to believe that the applicant has been or is a danger
57 to self or others as demonstrated by evidence including~~[-, but not limited to]~~:

58 (i) a past pattern of behavior involving unlawful violence or threats of unlawful

59 violence;

60 (ii) past participation in incidents involving unlawful violence or threats of unlawful
61 violence; or

62 (iii) conviction of ~~[any]~~ an offense in violation of Title 76, Chapter 10, Part 5,
63 Weapons.

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

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

68 (i) expunged records of arrests and convictions of adults as provided in Section
69 77-18-15; and

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

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

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

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

78 ~~[(5) In assessing good character under Subsection (2), the licensing authority shall
79 consider mitigating circumstances.]~~

80 ~~[(6)]~~ (5) Except as provided in Subsection ~~[(7)]~~ (6), the ~~[licensing authority]~~ division
81 shall also require the applicant to provide:

82 (a) the address of applicant's permanent residence;

83 (b) letters of character reference;

84 (c) two recent dated photographs;

85 (d) two sets of fingerprints;

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

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

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

90 ~~[(7)]~~ (6) An applicant who is a law enforcement officer under Section 53-13-103 may
91 provide a letter of good standing from the officer's commanding officer in place of the items
92 required by Subsections ~~[(6)]~~ (1)(a)(iii) and (5)(b), (e), and (f)~~[, and (g)]~~.

93 ~~[(8)]~~ (7) (a) General familiarity with the ~~[types]~~ type of ~~[firearms]~~ firearm to be
94 concealed includes training in:

95 (i) the safe loading, unloading, ~~[storage,]~~ firing, securing, storing, caring for and
96 maintaining of, and carrying of the ~~[types]~~ type of ~~[firearms]~~ firearm to be concealed; and

97 (ii) current criminal and civil laws defining lawful use of a firearm by a private citizen,
98 including lawful self-defense, judgmental shooting, use of force by a private citizen including
99 use of deadly force, transportation, and concealment.

100 (b) Evidence of general familiarity with the ~~[types]~~ type of ~~[firearms]~~ firearm to be
101 concealed ~~[may be]~~ is satisfied by one of the following:

102 (i) the applicant's completion of a course of instruction conducted by ~~[any]~~ a national,
103 state, or local firearms training organization approved by the division;

104 (ii) certification of an applicant's general familiarity with the type of firearm to be
105 concealed by a person who has been certified by the division, which may include a law
106 enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

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

109 ~~[(9)]~~ (8) An applicant for certification as a Utah concealed firearms instructor shall:

110 (a) be at least 21 years of age; and

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

112 ~~[(10)]~~ (9) Each certified concealed firearms instructor shall provide ~~[for his students]~~
113 each of the instructor's students with the required course of instruction outline approved by the
114 division.

115 ~~[(11)]~~ (10) ~~[A]~~ A concealed firearms ~~[instructors are required to]~~ instructor shall
116 provide a signed certificate to ~~[persons]~~ students completing the course of instruction, which
117 certificate shall be provided by the applicant to the division.

118 ~~[(12)]~~ (11) The division may deny, suspend, or revoke the certification of a concealed
119 firearms instructor if ~~[the licensing authority]~~ it has reason to believe the applicant has:

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

121 (b) knowingly and willfully provided false information to the division~~[-]; or~~
122 (c) failed to provide the instruction required for a student to obtain general familiarity
123 with a firearm required under this section.

124 ~~[(13)]~~ (12) A concealed firearms instructor has the same appeal rights as set forth in
125 Subsection ~~[(16)]~~ (15).

126 ~~[(14)]~~ (13) In issuing a permit under this part, the ~~[licensing authority]~~ division or its
127 designated agent is not vicariously liable for damages caused by the permit holder.

128 ~~[(15)]~~ (14) ~~[If any]~~ A person who knowingly and willfully provides false information
129 on an application filed under this part~~[-, he]~~ is guilty of a class B misdemeanor, and ~~[his]~~ the
130 person's application may be denied, or ~~[his]~~ the person's permit may be suspended or revoked.

131 ~~[(16)]~~ (15) (a) In the event of a denial, suspension, or revocation by the ~~[agency]~~
132 division, the applicant may file a petition for review with the board within 60 days from the
133 date the denial, suspension, or revocation is received by the applicant by certified mail, return
134 receipt requested.

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

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

140 (d) On appeal to the board, the ~~[agency shall have]~~ division has the burden of proof by
141 a preponderance of the evidence.

142 (e) (i) Upon a ruling by the board on the appeal of a denial, the division shall issue a
143 final order within 30 days stating the board's decision.

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

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

147 ~~[(17)]~~ (16) The commissioner may make rules in accordance with Title 63, Chapter
148 46a, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Legislative Review Note

as of 1-15-04 2:18 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0166

Concealed Firearm Permit Amendments

05-Feb-04

11:36 AM

State Impact

No fiscal impact

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst