

PURCHASE OF FIREARMS AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: James A. Ferrin

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

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

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



28 **76-10-524. Purchase of firearms pursuant to federal law.**

29 This part will allow purchases of firearms and ammunition [~~by residents in contiguous~~
30 ~~states]~~ pursuant to [~~the Federal Fire Arms Gun Control Act of 1968, section 922, paragraph B,~~
31 ~~no. 3]~~ U.S.C. Title 18 Chapter 44 Sec. 922b(3).

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

33 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
34 **Exemption for concealed firearm permit holders.**

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

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

41 ~~[(3)]~~ (1) For purposes of this section, "valid permit to carry a concealed firearm" does
42 not include a temporary permit issued pursuant to Section 53-5-705.

43 ~~[(4)]~~ (2) To establish personal identification and residence in this state for purposes of
44 this part, a dealer shall require [~~any person~~] an individual receiving a firearm to present~~[: (a)]~~
45 one photo identification on a form issued by a governmental agency of the state~~[- and]~~.

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

48 ~~[(5)]~~ (3) A criminal history background check is required for the sale of a firearm by a
49 licensed firearm dealer in the state.

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

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

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

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

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

58 ~~[(d)]~~ (iv) the Social Security number or any other identification number of the [~~person~~]

59 individual receiving the firearm.

60 [~~(7)~~] (5) (a) The dealer shall send the form required by Subsection [~~(6)~~] (4) to the
61 division immediately upon its completion.

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

65 [~~(8)~~] (6) The dealer shall make a request for criminal history background information
66 by telephone or other electronic means to the division and shall receive approval or denial of
67 the inquiry by telephone or other electronic means.

68 [~~(9)~~] (7) When the dealer calls for or requests a criminal history background check, the
69 division shall:

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

73 (b) inform the dealer that:

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

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

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

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

83 [~~(10)~~] (8) (a) The division shall not maintain any records of the criminal history
84 background check longer than 20 days from the date of the dealer's request if the division
85 determines that the [~~person~~] individual receiving the gun is not prohibited from purchasing,
86 possessing, or transferring the firearm under state or federal law.

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

90 ~~[(11)]~~ (9) If the criminal history background check discloses information indicating
91 that the ~~[person]~~ individual attempting to purchase the firearm is prohibited from purchasing,
92 possessing, or transferring a firearm, the division shall inform the law enforcement agency in
93 the jurisdiction where the person resides.

94 ~~[(12)]~~ (10) If ~~[a person]~~ an individual is denied the right to purchase a firearm under
95 this section, the ~~[person]~~ individual may review his criminal history information and may
96 challenge or amend the information as provided in Section 53-10-108.

97 ~~[(13)]~~ (11) The division shall make rules as provided in Title 63, Chapter 46a, Utah
98 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
99 records provided by the division pursuant to this part are in conformance with the requirements
100 of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

101 ~~[(14)]~~ (12) (a) (i) All dealers shall collect a criminal history background check fee
102 which is \$7.50.

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

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

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

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

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

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

Legislative Review Note

as of 2-2-04 2:27 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 HB0294

Purchase of Firearms Amendments

11-Feb-04

11:24 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst