

1                                   **ISSUANCE OF CONCEALED FIREARM**

2   **PERMITS AMENDMENTS**

3   2004 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: James A. Ferrin**

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7   **LONG TITLE**

8   **General Description:**

9                   This bill modifies provisions related to the application for and issuance of a concealed  
10 firearm permit.

11 **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ modifies the type and amount of information an applicant is required to provide in
- 14 order to receive a permit to carry a concealed firearm; and
- 15                   ▶ makes certain technical changes.

16 **Monies Appropriated in this Bill:**

17                   None

18 **Other Special Clauses:**

19                   None

20 **Utah Code Sections Affected:**

21 AMENDS:

22                   **53-5-704**, as last amended by Chapter 107, Laws of Utah 2000

23                   **53-5-706**, as last amended by Chapter 12, Laws of Utah 1994

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

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

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



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 within 60 days  
32 after receiving an application and upon proof that the person applying is of good character.

33 (b) The permit is valid throughout the state, without restriction except as provided by  
34 Section 53-5-710[: (a) for two years; or (b)] for five years [~~for permits issued or renewed on or~~  
35 ~~after May 1, 1998~~].

36 (2) An applicant satisfactorily demonstrates good character if he:

37 (a) has not been convicted of a felony;

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

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

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

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

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

44 (g) has not been adjudicated by a court of a state or of the United States as mentally  
45 incompetent, unless the adjudication has been withdrawn or reversed; and

46 (h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to  
47 Section 76-10-503 and federal law.

48 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if the  
49 licensing authority has reasonable cause to believe that the applicant has been or is a danger to  
50 self or others as demonstrated by evidence including, but not limited to:

51 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

52 (ii) past participation in incidents involving unlawful violence or threats of unlawful  
53 violence; or

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

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

58 (c) In determining whether the applicant has been or is a danger to self or others, the

59 division may inspect:

60 (i) expunged records of arrests and convictions of adults as provided in Section  
61 77-18-15; and

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

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

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

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

70 (5) In assessing good character under Subsection (2), the licensing authority shall  
71 consider mitigating circumstances.

72 (6) Except as provided in Subsection (7), the licensing authority shall also require the  
73 applicant to provide:

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

75 [~~(b) letters of character reference;~~]

76 [~~(c) two~~] (b) one recent dated [~~photographs~~] photograph;

77 [~~(d) two sets~~] (c) one set of fingerprints; and

78 [~~(e) a five-year employment history;~~]

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

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

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

85 (8) (a) General familiarity with the types of firearms to be concealed includes training  
86 in:

87 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be  
88 concealed; and

89 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful

90 self-defense, use of force by a private citizen including use of deadly force, transportation, and  
91 concealment.

92 (b) Evidence of general familiarity with the types of firearms to be concealed may be  
93 satisfied by one of the following:

94 (i) completion of a course of instruction conducted by any national, state, or local  
95 firearms training organization approved by the division;

96 (ii) certification of general familiarity by a person who has been certified by the  
97 division, which may include a law enforcement officer, military or civilian firearms instructor,  
98 or hunter safety instructor; or

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

101 (9) An applicant for certification as a Utah concealed firearms instructor shall:

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

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

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

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

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

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

112 (b) knowingly and willfully provided false information to the division.

113 (13) A concealed firearms instructor has the same appeal rights as set forth in  
114 Subsection (16).

115 (14) In issuing a permit under this part, the licensing authority is not vicariously liable  
116 for damages caused by the permit holder.

117 (15) If any person knowingly and willfully provides false information on an application  
118 filed under this part, he is guilty of a class B misdemeanor, and his application may be denied,  
119 or his permit may be suspended or revoked.

120 (16) (a) In the event of a denial, suspension, or revocation by the agency, the applicant

121 may file a petition for review with the board within 60 days from the date the denial,  
122 suspension, or revocation is received by the applicant by certified mail, return receipt  
123 requested.

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

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

129 (d) On appeal to the board, the agency shall have the burden of proof by a  
130 preponderance of the evidence.

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

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

134 (iii) The final order is final agency action for purposes of judicial review under Section  
135 63-46b-15.

136 (17) The commissioner may make rules in accordance with Title 63, Chapter 46a, Utah  
137 Administrative Rulemaking Act, necessary to administer this chapter.

138 Section 2. Section **53-5-706** is amended to read:

139 **53-5-706. Permit -- Fingerprints transmitted to division -- Report from division.**

140 (1) (a) Except as provided in Subsection (2), the fingerprints of each applicant shall be  
141 taken on [~~two copies of forms~~] a form prescribed by the division and shall be forwarded to the  
142 division.

143 (b) Upon receipt of the fingerprints and the fee prescribed in Section 53-5-707, the  
144 division shall conduct a search of its files for criminal history information pertaining to the  
145 applicant, and shall request the Federal Bureau of Investigation to conduct a similar search  
146 through its files.

147 (c) The division shall promptly furnish the forwarding licensing authority a report of all  
148 data and information pertaining to any applicant of which there is a record in its office, or of  
149 which a record is found in the files of the Federal Bureau of Investigation.

150 (d) A permit may not be issued by any licensing authority until receipt of the report  
151 from the division.

152           (2) If the permit applicant has previously applied to the same licensing authority for a  
153 permit to carry concealed firearms and the applicant's fingerprints and fee have been previously  
154 forwarded within one year to the division, the licensing authority shall note the previous  
155 identification numbers and other data which would provide positive identification in the files of  
156 the division on the copy of any subsequent permit submitted to the division in accordance with  
157 this section, and no additional application form, fingerprints, or fee are required.

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**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**

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**Fiscal Note**  
**Bill Number HB0295**

**Issuance of Concealed Firearm Permits Amendments**

*11-Feb-04*

*11:24 AM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**