

1                                   **CONCEALED FIREARMS INSTRUCTORS**

2   2006 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Curtis Oda**

5                                   Senate Sponsor: Michael G. Waddoups

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions of the Concealed Weapons Act related to the certification  
10 of concealed firearms instructors.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ requires an applicant for certification as a concealed firearms instructor to have a  
14 current National Rifle Association certification or its equivalent as determined by  
15 the Law Enforcement and Technical Services Division of the Department of Public  
16 Safety;
- 17           ▶ provides that the certification, when issued, is valid for a three-year period;
- 18           ▶ provides that a concealed firearms instructor, in order to renew a certification, shall  
19 attend a renewal course and pass a renewal test under the direction of the Criminal  
20 Investigations and Technical Services Division;
- 21           ▶ provides for certification and renewal of certification fees;
- 22           ▶ provides a procedure for issuing certificates to students who complete a course of  
23 instruction given by a certified concealed firearms instructor; and
- 24           ▶ makes certain technical changes.

25 **Monies Appropriated in this Bill:**

26           None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53-5-704**, as last amended by Chapter 282, Laws of Utah 2005



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

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

35 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**  
36 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**  
37 **suspension, or revocation -- Appeal procedure.**

38 (1) (a) The division or its designated agent shall issue a permit to carry a concealed  
39 firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days  
40 after receiving an application, unless during the 60-day period the division finds proof that the  
41 applicant is not of good character.

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

44 (2) (a) An applicant satisfactorily demonstrates good character if the applicant:

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

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

47 [~~(c)~~] (iii) has not been convicted of an offense involving the use of alcohol;

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

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

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

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

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

57 (b) In assessing good character under Subsection (2)(a), the licensing authority shall  
58 consider mitigating circumstances.

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

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

63 (ii) past participation in incidents involving unlawful violence or threats of unlawful  
64 violence; or

65 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

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

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

70 (i) expunged records of arrests and convictions of adults as provided in Section  
71 77-18-15; and

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

73 (d) (i) If a person granted a permit under this part has been charged with a crime of  
74 violence in any state, the division shall suspend the permit.

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

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

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

82 [~~(6)~~ (5)] Except as provided in Subsection [~~(7)~~ (6)], the licensing authority shall also  
83 require the applicant to provide:

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

85 (b) one recent dated photograph;

86 (c) one set of fingerprints; and

87 (d) evidence of general familiarity with the types of firearms to be concealed as defined  
88 in Subsection [~~(8)~~ (7)].

89 [~~(7)~~ (6)] An applicant who is a law enforcement officer under Section 53-13-103 may

90 provide a letter of good standing from the officer's commanding officer in place of the [items]  
 91 evidence required by Subsection [(6)] (5)(d).

92 [(8)] (7) (a) General familiarity with the types of firearms to be concealed includes  
 93 training in:

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

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

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

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

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

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

108 (c) [Any instruction] Instruction taken by a student under Subsection [(8)] (7)(b) shall  
 109 be in person and not through electronic means.

110 [(9)] (8) (a) An applicant for certification as a Utah concealed firearms instructor shall:

111 [(a)] (i) be at least 21 years of age[; and] ~~and~~ ~~and a resident of the state~~ ;

112 [(b)] (ii) be currently eligible to possess a firearm under Section 76-10-503 and federal  
 113 law[-]; ~~and~~ ;

114 (iii) have a current National Rifle Association certification or its equivalent as  
 115 determined by the division ; ~~and~~

115a (iv) for certificates issued beginning July 1, 2006, have taken a course of instruction  
 115b and passed a certification test as described in Subsection(8)(c). ;

116 (b) An instructor's certification is valid for three years from the date of issuance, unless  
 117 revoked by the division.

118 (c) (i) In order to ~~obtain initial certification or~~ renew a certification, an  
 118a instructor shall attend ~~an instructional~~ course and  
 119 pass a ~~renewal~~ test under the direction of the division.

120 (ii) (A) Beginning May 1, 2006, the division shall ~~provide~~ or contract to  
 120a provide ~~the course referred to in~~

121 Subsection (8)(c)(i) ~~H~~→ [at least] ←~~H~~ twice every ~~H~~→ [three years] year ←~~H~~ .

122 (B) The ~~H~~→ [renewal] ←~~H~~ course shall include instruction on current Utah law related to  
 123 firearms, including concealed carry statutes and rules, and the use of deadly force by private  
 124 citizens.

125 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of  
 126 \$50.00 at the time of application for initial certification.

127 (ii) The renewal fee for the certificate is \$25.

128 (iii) ~~H~~→ [All fees paid under this Subsection (8)(d) shall be promptly deposited in the state  
 129 treasury and credited to the General Fund.] The fees paid under Subsections (8)(d)(i) and (ii)  
 129a may be used by the division as a dedicated credit to cover the cost incurred in maintaining  
 129b and improving the instruction program required for concealed firearm instructors under  
 129c this Subsection (8). ←~~H~~

130 [~~(10)~~] (9) [Each] A certified concealed firearms instructor shall provide each of the  
 131 instructor's students with the required course of instruction outline approved by the division.

132 [~~(11) - AH~~] (10) (a) (i) A concealed firearms [instructors are] instructor is required to  
 133 provide a signed certificate to [persons] a person ~~H~~→ successfully ←~~H~~ completing the  
 133a offered course of instruction[-  
 134 which certificate shall be provided by the applicant].

135 (ii) The instructor shall sign the certificate with the exact name indicated on the  
 136 instructor's certification issued by the division under Subsection (8).

137 (iii) (A) The certificate shall also have affixed to it the instructor's official seal, which  
 138 is the exclusive property of the instructor and may not be used by any other person.

139 (B) The instructor shall destroy the seal upon revocation or expiration of the  
 140 instructor's certification under Subsection (8).

141 (C) The division shall determine the design and content of the seal to include at least  
 142 the following:

143 (I) the instructor's name as it appears on the instructor's certification;

144 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my  
 145 certification expires on (the instructor's certification expiration date)"; and

146 (III) the instructor's business or residence address.

147 (D) The seal shall be affixed to each student certificate issued by the instructor in a  
 148 manner that does not obscure or render illegible any information or signatures contained in the  
 149 document.

150 (b) The applicant shall provide the certificate to the division in compliance with  
 151 Subsection (5)(d).

152           ~~[(12)]~~ (11) The division may deny, suspend, or revoke the certification of a concealed  
153 firearms instructor if ~~[the licensing authority]~~ it has reason to believe the applicant has:

- 154           (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or  
155           (b) knowingly and willfully provided false information to the division.

156           ~~[(13)]~~ (12) A concealed firearms instructor has the same appeal rights as set forth in  
157 Subsection ~~[(16)]~~ (15).

158           ~~[(14)]~~ (13) In ~~Ĥ→~~ **providing instruction and** ~~←Ĥ~~ issuing a permit under this part,  
158a the ~~Ĥ→~~ **concealed firearms instructor and the** ~~←Ĥ~~ licensing authority ~~Ĥ→~~ **[is] are** ~~←Ĥ~~  
158b not vicariously  
159 liable for damages caused by the permit holder.

160           ~~[(15)]~~ (14) ~~[If any person]~~ An individual who knowingly and willfully provides false  
161 information on an application filed under this part~~[-, he]~~ is guilty of a class B misdemeanor, and  
162 ~~[his]~~ the application may be denied, or ~~[his]~~ the permit may be suspended or revoked.

163           ~~[(16)]~~ (15) (a) In the event of a denial, suspension, or revocation ~~[by the agency]~~ of a  
164 permit, the applicant may file a petition for review with the board within 60 days from the date  
165 the denial, suspension, or revocation is received by the applicant by certified mail, return  
166 receipt requested.

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

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

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

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

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

177           (iii) The final order is final agency action for purposes of judicial review under Section  
178 63-46b-15.

179           ~~[(17)]~~ (16) The commissioner may make rules in accordance with Title 63, Chapter  
180 46a, Utah Administrative Rulemaking Act, necessary to administer this chapter.

**Legislative Review Note**

as of 2-7-06 7:31 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**AMENDED BILL**

**State Impact**

It is estimated that provisions of this bill will increase state revenues by \$5,400 beginning FY 2007. Provisions of the bill can be implemented with existing resources.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$0	\$0	\$5,400	\$5,400
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,400</b>	<b>\$5,400</b>

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**Individual and Business Impact**

Applicants for certification will pay an initial certification fee of \$50. Certificate renewal is \$25 and is required every three years.

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**Office of the Legislative Fiscal Analyst**