



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53 ~~United States~~] as mentally incompetent, unless the adjudication has been withdrawn or  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]~~

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

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

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

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

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

122 (ii) (A) Beginning May 1, 2006, the division shall provide or contract to provide the  
123 course referred to in Subsection (8)(c)(i) twice every year.

124 (B) The course shall include instruction on current Utah law related to firearms,  
125 including concealed carry statutes and rules, and the use of deadly force by private citizens.

126 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of  
127 \$50.00 at the time of application for initial certification.

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

129 (iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a  
130 dedicated credit to cover the cost incurred in maintaining and improving the instruction  
131 program required for concealed firearm instructors under this Subsection (8).

132 ~~[(10)] (9) [Each] A~~ certified concealed firearms instructor shall provide each of the  
133 instructor's students with the required course of instruction outline approved by the division.

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

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

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

141 (B) The instructor shall destroy the seal upon revocation or expiration of the

142 instructor's certification under Subsection (8).

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

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

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

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

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

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

154 ~~[(12)]~~ (11) The division may deny, suspend, or revoke the certification of a concealed  
155 firearms instructor if ~~[the licensing authority]~~ it has reason to believe the applicant has:

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

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

158 ~~[(13)]~~ (12) A concealed firearms instructor has the same appeal rights as set forth in  
159 Subsection ~~[(16)]~~ (15).

160 ~~[(14)]~~ (13) In providing instruction and issuing a permit under this part, the concealed  
161 firearms instructor and the licensing authority [is] are not vicariously liable for damages caused  
162 by the permit holder.

163 ~~[(15)]~~ (14) ~~[If any person]~~ An individual who knowingly and willfully provides false  
164 information on an application filed under this part~~[, he]~~ is guilty of a class B misdemeanor, and  
165 ~~[his]~~ the application may be denied, or ~~[his]~~ the permit may be suspended or revoked.

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

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

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

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

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

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

180 (iii) The final order is final agency action for purposes of judicial review under Section  
181 63-46b-15.

182 [~~(17)~~] (16) The commissioner may make rules in accordance with Title 63, Chapter  
183 46a, Utah Administrative Rulemaking Act, necessary to administer this chapter.