

CONCEALED FIREARM PERMIT AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merlynn T. Newbold

Senate Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This bill modifies provisions of the Concealed Weapons Act related to the issuance of concealed firearm permits by the Criminal Investigations and Technical Services Division of the Department of Public Safety.

Highlighted Provisions:

This bill:

▶ provides that if the applicant for the issuance of a concealed firearm permit is a nonresident alien but resides in a country that has laws substantially equivalent to those in this country used to determine good character, the division shall verify the applicant's good character by doing a background check in both this country and in the applicant's country of residence;

▶ provides that the division may deny a concealed firearm permit to an applicant who is a nonresident alien if it is unable to do a background check verifying the applicant's good character due to the unavailability of or denial of access to needed information from the applicant's country of residence;

▶ provides that the permit fee for a nonresident alien shall be \$100; and

▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53-5-704**, as last amended by Laws of Utah 2006, Chapter 144

32 **53-5-707**, as last amended by Laws of Utah 2007, Chapter 77



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

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

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

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

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

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

- 46 (i) has not been convicted of a felony;
- 47 (ii) has not been convicted of a crime of violence;
- 48 (iii) has not been convicted of an offense involving the use of alcohol;
- 49 (iv) has not been convicted of an offense involving the unlawful use of narcotics or
- 50 other controlled substances;
- 51 (v) has not been convicted of an offense involving moral turpitude;
- 52 (vi) has not been convicted of an offense involving domestic violence;
- 53 (vii) has not been adjudicated by a state or federal court as mentally incompetent,
- 54 unless the adjudication has been withdrawn or reversed; and

55 (viii) is qualified to ~~H~~→ [f] **purchase and /or** [f] ~~H~~ possess a firearm pursuant to
55a Section 76-10-503
56 and federal law.

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

59 (c) If the applicant is a nonresident alien and resides in a country that has laws
60 substantially equivalent to the same as those set out in Subsections (2)(a)(i) through (vii), the
61 division shall validate or verify the applicant's good character by doing a background check in
62 both this country and in the applicant's country of residence.

63 (d) The division may deny a concealed firearm permit to a nonresident alien applicant
64 if it is unable to do a background check verifying the applicant's good character under
65 Subsection (2) due to the unavailability of or denial of access to needed information from the
66 applicant's country of residence.

67 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has
68 reasonable cause to believe that the applicant or permit holder has been or is a danger to self or
69 others as demonstrated by evidence, including:

70 (i) a past pattern of behavior involving unlawful violence or threats of unlawful
71 violence;

72 (ii) past participation in incidents involving unlawful violence or threats of unlawful
73 violence; or

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

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

77 (c) In determining whether the applicant or permit holder has been or is a danger to self
78 or others, the division may inspect:

79 (i) expunged records of arrests and convictions of adults as provided in Section
80 77-18-15; and

81 (ii) juvenile court records as provided in Section ~~[78-3a-206]~~ 78A-6-209.

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

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

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

89 (5) Except as provided in Subsection (6), the licensing authority shall also require the

90 applicant to provide:

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

92 (b) one recent dated photograph;

93 (c) one set of fingerprints; and

94 (d) evidence of general familiarity with the [types] type of [firearms] firearm to be
95 concealed as defined in Subsection (7).

96 (6) An applicant who is a law enforcement officer under Section 53-13-103 may
97 provide a letter of good standing from the officer's commanding officer in place of the evidence
98 required by Subsection (5)(d).

99 (7) (a) General familiarity with the [types] type of [firearms] firearm to be concealed
100 includes training in:

101 (i) the safe loading, unloading, storage, and carrying of the [types] type of [firearms]
102 firearm to be concealed; and

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

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

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

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

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

115 (c) Instruction taken by a student under Subsection (7)(b) shall be in person and not
116 through electronic means.

117 (8) (a) An applicant for certification as a Utah concealed firearms instructor shall:

118 (i) be at least 21 years of age;

119 (ii) be currently eligible to possess a firearm under Section 76-10-503 and federal law;

120 (iii) have a current National Rifle Association certification or its equivalent as

121 determined by the division; and

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

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

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

128 (ii) (A) [~~Beginning May 1, 2006, the~~] The division shall provide or contract to provide
129 the course referred to in Subsection (8)(c)(i) twice every year.

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

132 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of
133 \$50.00 at the time of application for initial certification.

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

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

138 (9) A certified concealed firearms instructor shall provide each of the instructor's
139 students with the required course of instruction outline approved by the division.

140 (10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to
141 a person successfully completing the offered course of instruction.

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

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

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

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

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

151 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my

152 certification expires on (the instructor's certification expiration date)"; and

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

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

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

159 (11) The division may deny, suspend, or revoke the certification of a concealed
160 firearms instructor if it has reason to believe that the applicant has:

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

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

163 (12) A concealed firearms instructor has the same appeal rights as set forth in
164 Subsection (15).

165 (13) In providing instruction and issuing a permit under this part, the concealed
166 firearms instructor and the licensing authority are not vicariously liable for damages caused by
167 the permit holder.

168 (14) An individual who knowingly and willfully provides false information on an
169 application filed under this part is guilty of a class B misdemeanor, and the division may deny
170 the application [~~may be denied~~], or suspend or revoke the permit [~~may be suspended or~~
171 ~~revoked~~].

172 (15) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or
173 permit holder may file a petition for review with the board within 60 days from the date the
174 denial, suspension, or revocation is received by the applicant or permit holder by certified mail,
175 return receipt requested.

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

178 (c) If an applicant or permit holder appeals the denial to the review board, the applicant
179 or permit holder may have access to the evidence upon which the denial is based in accordance
180 with Title 63, Chapter 2, Government Records Access and Management Act.

181 (d) On appeal to the board, the agency has the burden of proof by a preponderance of
182 the evidence.

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

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

186 (iii) The final order is final agency action for purposes of judicial review under Section
187 63-46b-15.

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

190 Section 2. Section **53-5-707** is amended to read:

191 **53-5-707. Permit -- Fees -- Disposition.**

192 (1) (a) Each applicant for a permit shall pay a fee of \$35 at the time of filing an
193 application, except that a nonresident alien applicant shall pay a fee of \$100.

194 (b) The initial fee shall be waived for an applicant who is a law enforcement officer
195 under Section 53-13-103.

196 (2) The renewal fee for the permit is \$10.

197 (3) The replacement fee for the permit is \$10.

198 (4) The late fee for the renewal permit is \$7.50.

199 (5) (a) The division shall use the fees collected under Subsections (1), (2), (3), and (4)
200 as a dedicated credit to cover the costs of issuing concealed firearm permits under this part.

201 (b) All revenue collected from the fees identified in Subsections (1), (2), (3), and (4) in
202 excess of the amount necessary to cover the cost of issuing concealed firearm permits under
203 this part shall be retained by the Bureau of Criminal Identification to help fund any other costs
204 incurred by the bureau, but only for the fiscal year 2007-08.

205 (6) (a) The division may collect any fees charged by an outside agency for additional
206 services required by statute as a prerequisite for issuance of a permit.

207 (b) The division shall promptly forward any fees collected under Subsection (6)(a) to
208 the appropriate agency.

209 (7) The division shall make an annual report to the Legislature's Law Enforcement and
210 Criminal Justice Interim Committee on the amount and use of the fees collected under this
211 section.

Legislative Review Note
as of 2-11-08 4:11 PM

Office of Legislative Research and General Counsel

H.B. 195 - Concealed Firearm Permit Amendments

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will generate \$48,700 per year in new dedicated credits revenue beginning FY 2009.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Dedicated Credits	\$0	\$0	\$0	\$0	\$48,700	\$48,700
Total	\$0	\$0	\$0	\$0	\$48,700	\$48,700

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.