



House of Representatives *State of Utah*

UTAH STATE CAPITOL COMPLEX • 350 STATE CAPITOL
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January 25, 2008

Mr. Speaker:

The Law Enforcement and Criminal Justice Committee reports a favorable recommendation on **H.B. 14, DISCHARGE OF FIREARM AMENDMENTS**, by Representative C. Wimmer, with the following amendments and recommends it be placed on the Consent Calendar.

1. *Page 2, Line 32:*

32 76-10-508, as last amended by Laws of Utah 2005, Chapter 220

ENACTS:

Section 76-10-508.1, Utah Code Annotated 1953

2. *Page 3, Lines 65 through 67:*

65 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
66 requires disqualification;

67 (xi) a felony violation of Section 76-10-508 **or 76-10-508.1** involving
discharging or allowing the

3. *Page 3, Lines 83 through 86:*

83 (b) The division shall immediately revoke the license of a person upon receiving a
84 record of an adjudication under Title 78, Chapter 3a, Juvenile Court Act of 1996, for [any
of

85 ~~the following offenses~~]:

86 (i) a felony violation of Section 76-10-508 **or 76-10-508.1** involving
discharging or allowing the

4. *Page 6, Lines 165 through 166:*

165 (v) a felony violation of [~~Subsection~~] Section 76-10-508~~(2)~~ **or 76-10-508.1**
= regarding discharge of a

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166 firearm or dangerous weapon.

5. Page 8, Lines 226 through 227:

226 (b) It ~~{shall be}~~ is a defense to any ~~{+}~~ charge for
violating ~~{+}~~ ~~{—misdemeanor violation of}~~ this
227 section that the person being accused had actual permission of the owner or person in
charge of

6. Page 8, Line 229 through Page 9, Line 250:

229 (2) ~~{+}~~ A ~~{+}~~ ~~{—Except as provided in Subsection (3), a}~~ violation of
any provision of ~~[this~~
230 ~~section]~~ Subsection (1) is a class B misdemeanor ~~[unless the actor discharges]~~.
231 ~~{(3) A person commits a felony offense subject to penalty under Subsection~~
~~(4) if the~~
232 ~~person violates any provision of Subsection (1) by discharging}~~ ~~{a firearm under~~
~~any of the~~
233 ~~following circumstances not amounting to criminal homicide or attempted criminal~~
~~homicide}~~ ~~;~~
234 in which case it is a third degree felony and the convicted person shall be sentenced to an
235 enhanced minimum term of three years in prison] ~~{—~~
236 ~~—(a) the actor discharges a firearm in the direction of any person or persons;~~
~~knowing or~~
237 ~~having reason to believe that any person may be endangered;~~
238 ~~—(b) the actor, with intent to intimidate or harass another or with intent to~~
~~damage a~~
239 ~~habitable structure as defined in Subsection 76-6-101(2), discharges a firearm in the~~
~~direction~~
240 ~~of any building; or~~
241 ~~—(c) the actor, with intent to intimidate or harass another, discharges a firearm in~~
~~the~~
242 ~~direction of any vehicle.}~~
243 ~~{(4) A violation under Subsection (3):~~
244 ~~—(a) is a felony of the third degree, punishable by imprisonment for a term of not~~

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less
245 than three years nor more than five years, except as provided in Subsection (4)(b) or
(c);
246 —(b) that results in bodily injury to another is a felony of the second degree;
punishable
247 by imprisonment for a term of not less than three years nor more than 15 years;
except as
248 provided in Subsection (4)(c); or
249 —(c) that results in serious bodily injury to another is a first degree felony;
punishable by
250 imprisonment for a term of not less than three years and which may be for life. }

7. *Page 9, Lines 251 through 259:*

251 {+} (3) {+} {-(5)} {The} In addition to any other penalties,
the court shall:
252 (a) notify the Driver License Division of the conviction for purposes of any
revocation,
253 denial, suspension, or disqualification of a driver license under [Section-] Subsection
254 53-3-220(1)(a)(xi); and
255 (b) specify in court at the time of sentencing the length of the revocation under
256 Subsection 53-3-225(1)(c).
257 {+} (4) {+} {-(6)} This section does not apply to a person who:
258 (a) [who] discharges any kind of firearm when that person is in lawful defense of self
259 or others; [or]

8. *Page 9, Lines 265 through 266:*

265 stop at a location other than within the boundaries of the firing range or training ground
266 described in Subsection {-(6)} (4) (c)(i);

9. *Page 9, Line 270:*

270 (v) the discharge is not made in violation of Subsection {-(3)} (1) .
Section 4. Section 76-10-508.1 is enacted to read:

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76-10-508.1. Felony Discharge of a firearm – Penalties.

(1) Except as provided under Subsection (2) or (3), a person who discharges a firearm under any of the circumstances not amounting to criminal homicide or attempted criminal homicide is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of any person or persons, knowing or having reason to believe that any person may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any person or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) which causes injury to any person is a second degree felony punishable by imprisonment for a term of not less than three years nor more than fifteen years.

(3) A violation of Subsection (1) which causes serious bodily injury to any person is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to a person:

(a) who discharges any kind of firearm when that person is in lawful defense of self or others;

(b) who is performing official duties as provided in Sections 23-20-1.5 or 76-10-523 or as otherwise authorized by law;

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross

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over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground prior to the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Respectfully,

DeMar "Bud" Bowman
Committee Chair

Voting: 10-0-1

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