

H.B. 14

DISCHARGE OF FIREARM AMENDMENTS

Representative **Carl Wimmer** proposes the following amendments:

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
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 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:

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 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).