

CONCEALED FIREARMS INSTRUCTORS

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the requirements for obtaining certification as a concealed firearms instructor.

Highlighted Provisions:

This bill:

- ▶ provides that an applicant for certification as a concealed firearms instructor must be a resident of the state; and
- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2008, Chapters 3 and 382

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

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

53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for



28 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
29 **suspension, or revocation -- Appeal procedure.**

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

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

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

37 (i) has not been convicted of a felony;

38 (ii) has not been convicted of a crime of violence;

39 (iii) has not been convicted of an offense involving the use of alcohol;

40 (iv) has not been convicted of an offense involving the unlawful use of narcotics or
41 other controlled substances;

42 (v) has not been convicted of an offense involving moral turpitude;

43 (vi) has not been convicted of an offense involving domestic violence;

44 (vii) has not been adjudicated by a state or federal court as mentally incompetent,
45 unless the adjudication has been withdrawn or reversed; and

46 (viii) is qualified to purchase and possess a firearm pursuant to Section 76-10-503 and
47 federal law.

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

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

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

54 (ii) past participation in incidents involving unlawful violence or threats of unlawful
55 violence; or

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

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

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

61 (i) expunged records of arrests and convictions of adults as provided in Section
62 77-18-15; and

63 (ii) juvenile court records as provided in Section 78A-6-209.

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

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

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

71 (5) Except as provided in Subsection (6), the licensing authority shall also require the
72 applicant to provide:

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

74 (b) one recent dated photograph;

75 (c) one set of fingerprints; and

76 (d) evidence of general familiarity with the types of firearms to be concealed as defined
77 in Subsection (7).

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

81 (7) (a) General familiarity with the types of firearms to be concealed includes training
82 in:

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

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

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

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

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

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

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

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

100 (i) be at least 21 years of age and a resident of the state;

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

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

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

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

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

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

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

114 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of
115 \$50.00 at the time of application for initial certification.

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

117 (iii) The [~~fees~~] division may use a fee paid under Subsections (8)(d)(i) and (ii) [~~may be~~
118 ~~used by the division~~] as a dedicated credit to cover the cost incurred in maintaining and
119 improving the instruction program required for concealed firearm instructors under this
120 Subsection (8).

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

123 (10) (a) (i) A concealed firearms instructor [~~is required to~~] shall provide a signed
124 certificate to a person successfully completing the offered course of instruction.

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

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

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

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

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

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

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

137 (D) [~~The~~] An instructor shall affix the seal [~~shall be affixed~~] to each student certificate
138 issued by the instructor in a manner that does not obscure or render illegible any information or
139 signatures contained in the document.

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

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

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

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

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

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

151 (14) An individual who knowingly and willfully provides false information on an

152 application filed under this part is guilty of a class B misdemeanor, and the division may deny
153 the application [~~may be denied;~~] or suspend or revoke the permit [~~may be suspended or~~
154 ~~revoked~~].

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

159 (b) The denial, suspension, or revocation of a permit shall be in writing and shall
160 include the general reasons for the action.

161 (c) If an applicant or permit holder appeals the denial, suspension, or revocation to the
162 review board, the applicant or permit holder may have access to the evidence upon which the
163 [~~denial~~] action is based in accordance with Title 63G, Chapter 2, Government Records Access
164 and Management Act.

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

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

169 (ii) The division shall issue the final order [~~shall be~~] in the form prescribed by
170 Subsection 63G-4-203(1)(i).

171 (iii) The final order is final agency action for purposes of judicial review under Section
172 63G-4-402.

173 (16) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah
174 Administrative Rulemaking Act, necessary to administer this chapter.

Legislative Review Note
as of 2-3-09 11:59 AM

Office of Legislative Research and General Counsel

H.B. 204 - Concealed Firearms Instructors Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will reduce Dedicated Credit Revenue at the Department of Public Safety by \$126,800 in FY 2010 and \$243,200 in FY 2011 and each fiscal year thereafter. If processing times remain the same, two (2) FTEs (at \$60,000 per) will be reduced in FY 2010 and an additional two (2) in FY 2011.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Dedicated Credits	\$0	(\$120,000)	(\$240,000)	\$0	(\$126,800)	(\$243,200)
Total	\$0	(\$120,000)	(\$240,000)	\$0	(\$126,800)	(\$243,200)

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. Out-of-state applicants will be denied certification.
