

**Representative Rebecca D. Lockhart** proposes the following substitute bill:

**CONCEALED FIREARM PERMIT**

**MODIFICATIONS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca D. Lockhart**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Concealed Weapon Act and related provisions dealing with the issuance, denial, and revocation of a concealed firearm permit.

**Highlighted Provisions:**

This bill:

- ▶ changes the names of the Concealed Weapon Act and the Concealed Weapon Review Board to the Concealed Firearm Act and the Concealed Firearm Review Board;
- ▶ provides that duties related to the issuance of a concealed firearm permit previously designated to be performed by the Criminal Investigations and Technical Services Division will be performed by the Bureau of Criminal Identification;
- ▶ clarifies the ability of the bureau to revoke a concealed carry permit of a licensee who is convicted of a felony or other crimes or offenses; and
- ▶ makes certain technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53-1-104**, as last amended by Laws of Utah 2007, Chapter 66

30 **53-5-701**, as enacted by Laws of Utah 1993, Chapter 234

31 **53-5-702**, as last amended by Laws of Utah 2005, Chapter 282

32 **53-5-703**, as last amended by Laws of Utah 1997, Chapters 10 and 280

33 **53-5-704**, as last amended by Laws of Utah 2008, Chapters 3 and 382

34 **53-5-705**, as last amended by Laws of Utah 2008, Chapter 382

35 **53-5-706**, as last amended by Laws of Utah 2004, Chapter 361

36 **53-5-707**, as last amended by Laws of Utah 2007, Chapter 77

37 **53-5-708**, as last amended by Laws of Utah 2008, Chapter 382

38 **53-5-711**, as last amended by Laws of Utah 2008, Chapter 250

39 **76-10-501**, as last amended by Laws of Utah 2001, Chapter 111

40 **76-10-526**, as last amended by Laws of Utah 2009, Chapter 183

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

43 Section 1. Section **53-1-104** is amended to read:

44 **53-1-104. Boards, bureaus, councils, divisions, and offices.**

45 (1) The following are the policymaking boards within the department:

46 (a) the Driver License Medical Advisory Board, created in Section 53-3-303;

47 (b) the Concealed [~~Weapon~~] Firearm Review Board, created in Section 53-5-703;

48 (c) the Utah Fire Prevention Board, created in Section 53-7-203;

49 (d) the Liquefied Petroleum Gas Board, created in Section 53-7-304; and

50 (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

51 (2) The following are the councils within the department:

52 (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and

53 (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section

54 53-8-203.

55 (3) The following are the divisions within the department:

56 (a) the Administrative Services Division, created in Section 53-1-203;

- 57 (b) the Management Information Services Division, created in Section 53-1-303;
- 58 (c) the Division of Homeland Security, created in Section 53-2-103;
- 59 (d) the Driver License Division, created in Section 53-3-103;
- 60 (e) the Criminal Investigations and Technical Services Division, created in Section
- 61 53-10-103;
- 62 (f) the Peace Officers Standards and Training Division, created in Section 53-6-103;
- 63 (g) the State Fire Marshal Division, created in Section 53-7-103; and
- 64 (h) the Utah Highway Patrol Division, created in Section 53-8-103.
- 65 (4) The Office of Executive Protection is created in Section 53-1-112.
- 66 (5) The following are bureaus within the department:
- 67 (a) Bureau of Criminal Identification, created in Section 53-10-201;
- 68 (b) State Bureau of Investigation, created in Section 53-10-301;
- 69 (c) Bureau of Forensic Services, created in Section 53-10-401; and
- 70 (d) Bureau of Communications, created in Section 53-10-501.

71 Section 2. Section **53-5-701** is amended to read:

72 **CHAPTER 5. REGULATION OF FIREARMS**

73 **Part 7. Concealed Firearm Act**

74 **53-5-701. Title.**

75 This part is known as the "Concealed [~~Weapon~~] Firearm Act."

76 Section 3. Section **53-5-702** is amended to read:

77 **53-5-702. Definitions.**

78 (1) As used in this part:

79 (a) "Board" means the Concealed [~~Weapon~~] Firearm Review Board created in Section  
80 53-5-703.

81 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201  
82 within the Department of Public Safety.

83 [~~(b)~~] (c) "Commissioner" means the commissioner of the Department of Public Safety.

84 [~~(c)~~] (d) "Conviction" means criminal conduct where the filing of a criminal charge has  
85 resulted in:

86 (i) a finding of guilt based on evidence presented to a judge or jury;

87 (ii) a guilty plea;

88 (iii) a plea of nolo contendere;

89 (iv) a plea of guilty or nolo contendere which is held in abeyance pending the  
90 successful completion of probation;

91 (v) a pending diversion agreement; or

92 (vi) a conviction which has been reduced pursuant to Section 76-3-402.

93 ~~[(d) "Division" means the Criminal Investigations and Technical Services Division~~  
94 ~~created in Section 53-10-103.]~~

95 (2) The definitions in Section 76-10-501 apply to this part.

96 Section 4. Section **53-5-703** is amended to read:

97 **53-5-703. Board -- Membership -- Compensation -- Terms -- Duties.**

98 (1) There is created within the [~~division~~] bureau the Concealed [~~Weapon~~] Firearm  
99 Review Board.

100 (2) (a) The board is comprised of not more than five members appointed by the  
101 commissioner on a bipartisan basis.

102 (b) The board shall include a member representing law enforcement and at least two  
103 citizens, one of whom represents sporting interests.

104 (3) (a) Except as required by Subsection (3)(b), as terms of current board members  
105 expire, the commissioner shall appoint each new member or reappointed member to a four-year  
106 term.

107 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at  
108 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
109 board members are staggered so that approximately half of the board is appointed every two  
110 years.

111 (4) When a vacancy occurs in the membership for any reason, the replacement shall be  
112 appointed for the unexpired term.

113 (5) (a) (i) Members who are not government employees shall receive no compensation  
114 or benefits for their services, but may receive per diem and expenses incurred in the  
115 performance of the member's official duties at the rates established by the Division of Finance  
116 under Sections 63A-3-106 and 63A-3-107.

117 (ii) Members may decline to receive per diem and expenses for their service.

118 (b) (i) State government officer and employee members who do not receive salary, per

119 diem, or expenses from their agency for their service may receive per diem and expenses  
 120 incurred in the performance of their official duties from the board at the rates established by the  
 121 Division of Finance under Sections 63A-3-106 and 63A-3-107.

122 (ii) State government officer and employee members may decline to receive per diem  
 123 and expenses for their service.

124 (6) The board shall meet at least quarterly, unless the board has no business to conduct  
 125 during that quarter.

126 (7) The board, upon receiving a timely filed petition for review, shall review within a  
 127 reasonable time the denial, suspension, or revocation of a permit or a temporary permit to carry  
 128 a concealed firearm.

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

130 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**  
 131 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**  
 132 **suspension, or revocation -- Appeal procedure.**

133 (1) (a) The [~~division or its designated agent~~] bureau shall issue a permit to carry a  
 134 concealed firearm for lawful self defense to an applicant who is 21 years of age or older within  
 135 60 days after receiving an application, unless [~~during the 60-day period the division~~] the bureau  
 136 finds proof that the applicant [~~is not of good character~~] does not meet the qualifications set  
 137 forth in Subsection (2).

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

140 [~~(2)(a) An applicant satisfactorily demonstrates good character if the applicant:]~~

141 (c) The provisions of Subsections 76-10-504(1) and (2), and ~~H~~→ **[Section 76-10-501]**

141a **Section 76-10-505 ←H** do not

142 apply to a person issued a permit under Subsection (1)(a).

143 (2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the  
 144 applicant or permit holder:

145 (i) has [~~not~~] been or is convicted of a felony;

146 (ii) has [~~not~~] been or is convicted of a crime of violence;

147 (iii) has [~~not~~] been or is convicted of an offense involving the use of alcohol;

148 (iv) has [~~not~~] been or is convicted of an offense involving the unlawful use of narcotics  
 149 or other controlled substances;

- 150 (v) has [~~not~~] been or is convicted of an offense involving moral turpitude;
- 151 (vi) has [~~not~~] been or is convicted of an offense involving domestic violence;
- 152 (vii) has [~~not~~] been or is adjudicated by a state or federal court as mentally  
153 incompetent, unless the adjudication has been withdrawn or reversed; and
- 154 (viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503  
155 and federal law.

156 (b) In [~~assessing good character under~~] determining whether an applicant or permit  
157 holder meets the qualifications set forth in Subsection (2)(a), the [~~licensing authority~~] bureau  
158 shall consider mitigating circumstances.

159 (3) (a) The [~~division~~] bureau may deny, suspend, or revoke a concealed firearm permit  
160 if it has reasonable cause to believe that the applicant or permit holder has been or is a danger  
161 to self or others as demonstrated by evidence, including:

- 162 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
- 163 (ii) past participation in incidents involving unlawful violence or threats of unlawful  
164 violence; or
- 165 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

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

169 (c) In determining whether the applicant or permit holder has been or is a danger to self  
170 or others, the [~~division~~] bureau may inspect:

- 171 (i) expunged records of arrests and convictions of adults as provided in Section  
172 77-18-15; and
- 173 (ii) juvenile court records as provided in Section 78A-6-209.

174 (d) (i) If a person granted a permit under this part has been charged with a crime of  
175 violence in any state, the [~~division~~] bureau shall suspend the permit.

176 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having  
177 been dropped, the [~~division~~] bureau shall immediately reinstate the suspended permit.

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

181 (5) Except as provided in Subsection (6), the [~~licensing authority~~] bureau shall also  
182 require the applicant to provide:

- 183 (a) the address of the applicant's permanent residence;
- 184 (b) one recent dated photograph;
- 185 (c) one set of fingerprints; and
- 186 (d) evidence of general familiarity with the types of firearms to be concealed as defined  
187 in Subsection (7).

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

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

- 193 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be  
194 concealed; and
- 195 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful  
196 self-defense, use of force by a private citizen, including use of deadly force, transportation, and  
197 concealment.

198 (b) [~~Evidence of general familiarity with the types of firearms to be concealed may be~~  
199 ~~satisfied~~] An applicant may satisfy the general familiarity requirement of Subsection (7)(a) by  
200 one of the following:

- 201 (i) completion of a course of instruction conducted by a national, state, or local  
202 firearms training organization approved by the [~~division~~] bureau;
- 203 (ii) certification of general familiarity by a person who has been certified by the  
204 [~~division~~] bureau, which may include a law enforcement officer, military or civilian firearms  
205 instructor, or hunter safety instructor; or
- 206 (iii) equivalent experience with a firearm through participation in an organized  
207 shooting competition, law enforcement, or military service.

208 (c) Instruction taken by a student under Subsection (7)[~~(b)~~] shall be in person and not  
209 through electronic means.

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

- 211 (i) be at least 21 years of age;

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

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

214 determined by the division; and

215 (iv) [~~for certificates issued beginning July 1, 2006,~~] have taken a course of instruction

216 and passed a certification test as described in Subsection (8)(c).

217 (b) An instructor's certification is valid for three years from the date of issuance, unless

218 revoked by the [~~division~~] bureau.

219 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall

220 attend an instructional course and pass a test under the direction of the [~~division~~] bureau.

221 (ii) (A) [~~Beginning May 1, 2006, the division~~] The bureau shall provide or contract to

222 provide the course referred to in Subsection (8)(c)(i) twice every year.

223 (B) The course shall include instruction on current Utah law related to firearms,

224 including concealed carry statutes and rules, and the use of deadly force by private citizens.

225 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of

226 \$50.00 at the time of application for initial certification.

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

228 (iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the [~~division~~]

229 bureau as a dedicated credit to cover the cost incurred in maintaining and improving the

230 instruction program required for concealed firearm instructors under this Subsection (8).

231 (9) A certified concealed firearms instructor shall provide each of the instructor's

232 students with the required course of instruction outline approved by the [~~division~~] bureau.

233 (10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to

234 a person successfully completing the offered course of instruction.

235 (ii) The instructor shall sign the certificate with the exact name indicated on the

236 instructor's certification issued by the [~~division~~] bureau under Subsection (8).

237 (iii) (A) The certificate shall also have affixed to it the instructor's official seal, which

238 is the exclusive property of the instructor and may not be used by any other person.

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

240 instructor's certification under Subsection (8).

241 (C) The [~~division~~] bureau shall determine the design and content of the seal to include

242 at least the following:



- 243 (I) the instructor's name as it appears on the instructor's certification;
- 244 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my  
245 certification expires on (the instructor's certification expiration date)"; and
- 246 (III) the instructor's business or residence address.
- 247 (D) The seal shall be affixed to each student certificate issued by the instructor in a  
248 manner that does not obscure or render illegible any information or signatures contained in the  
249 document.
- 250 (b) The applicant shall provide the certificate to the [~~division~~] bureau in compliance  
251 with Subsection (5)(d).
- 252 (11) The division may deny, suspend, or revoke the certification of an applicant or a  
253 concealed firearms instructor if it has reason to believe the applicant or the instructor has:
- 254 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or
- 255 (b) knowingly and willfully provided false information to the [~~division~~] bureau.
- 256 (12) [~~A~~] An applicant for certification or a concealed firearms instructor has the same  
257 appeal rights as set forth in Subsection (15).
- 258 (13) In providing instruction and issuing a permit under this part, the concealed  
259 firearms instructor and the [~~licensing authority~~] bureau are not vicariously liable for damages  
260 caused by the permit holder.
- 261 (14) An individual who knowingly and willfully provides false information on an  
262 application filed under this part is guilty of a class B misdemeanor, and the application may be  
263 denied, or the permit may be suspended or revoked.
- 264 (15) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or  
265 permit holder may file a petition for review with the board within 60 days from the date the  
266 denial, suspension, or revocation is received by the applicant or permit holder by certified mail,  
267 return receipt requested.
- 268 (b) The bureau's denial of a permit shall be in writing and shall include the general  
269 reasons for the action.
- 270 (c) If an applicant or permit holder appeals the denial to the review board, the applicant  
271 or permit holder may have access to the evidence upon which the denial is based in accordance  
272 with Title 63G, Chapter 2, Government Records Access and Management Act.
- 273 (d) On appeal to the board, the [~~agency~~] bureau has the burden of proof by a

274 preponderance of the evidence.

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

277 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

278 (iii) The final order is final [~~agency~~] bureau action for purposes of judicial review  
279 under Section 63G-4-402.

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

282 Section 6. Section **53-5-705** is amended to read:

283 **53-5-705. Temporary permit to carry concealed firearm -- Denial, suspension, or**  
284 **revocation -- Appeal.**

285 (1) The [~~division~~] bureau or its designated agent may issue a temporary permit to carry  
286 a concealed firearm to a person who:

287 (a) has applied for a permit under Section 53-5-704;

288 (b) has applied for a temporary permit under this section; and

289 (c) meets the criteria required in Subsections (2) and (3).

290 (2) To receive a temporary permit under this section, the applicant shall demonstrate in  
291 writing to the satisfaction of the [~~licensing authority~~] bureau extenuating circumstances that  
292 would justify issuing a temporary permit.

293 (3) A temporary permit may not be issued under this section until preliminary record  
294 checks regarding the applicant have been made with the National Crime Information Center  
295 and the [~~division~~] bureau to determine any criminal history.

296 (4) ~~Ĥ~~→ (a) ←~~Ĥ~~ A temporary permit is valid only for a maximum of 90 days or any  
296a lesser period

297 specified by the [~~division~~] bureau, or until a permit under Section 53-5-704 is issued to the  
298 holder of the temporary permit, whichever period is shorter.

298a ~~Ĥ~~→ (b) The provisions of Subsections 76-10-504(1) and (2) and Section 76-10-505 do not  
298b apply to a person issued a temporary permit under this section during the time period for  
298c which the temporary permit is valid. ←~~Ĥ~~

299 (5) The [~~licensing authority~~] bureau may deny, suspend, or revoke a temporary permit  
300 prior to expiration if the commissioner determines:

301 (a) the circumstances justifying the temporary permit no longer exist; or

302 (b) the holder of the temporary permit does not meet the requirements for a permit  
303 under Section 53-5-704.

304 (6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing

305 and shall include the reasons for the action.

306 (b) The [~~licensing authority's~~] bureau's decision to deny, suspend, or revoke a  
307 temporary permit may not be appealed to the board.

308 (c) Denial, suspension, or revocation under this subsection is final action for purposes  
309 of judicial review under Section 63G-4-402.

310 Section 7. Section **53-5-706** is amended to read:

311 **53-5-706. Permit -- Fingerprints transmitted to bureau -- Report from bureau.**

312 (1) (a) Except as provided in Subsection (2), the fingerprints of each applicant shall be  
313 taken on a form prescribed by the [~~division~~] bureau and shall be forwarded to the [~~division~~]  
314 bureau.

315 (b) Upon receipt of the fingerprints and the fee prescribed in Section 53-5-707, the  
316 [~~division~~] bureau shall conduct a search of its files for criminal history information pertaining  
317 to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar  
318 search through its files.

319 (c) The [~~division~~] bureau shall promptly furnish the forwarding licensing authority a  
320 report of all data and information pertaining to any applicant of which there is a record in its  
321 office, or of which a record is found in the files of the Federal Bureau of Investigation.

322 (d) A permit may not be issued by any licensing authority until receipt of the report  
323 from the [~~division~~] bureau.

324 (2) (a) If the permit applicant has previously applied to the same licensing authority for  
325 a permit to carry ~~§~~ → [a] ← ~~§~~ concealed [~~firearms~~] ~~§~~ → [~~firearm~~] firearms ← ~~§~~ and the applicant's  
325a fingerprints and fee have  
326 been previously forwarded within one year to the division, the [~~licensing authority~~] bureau  
327 shall note the previous identification numbers and other data which would provide positive  
328 identification in the files of the [~~division~~] bureau on the copy of any subsequent permit  
329 submitted to the [~~division~~] bureau in accordance with this section[~~, and no~~].

330 (b) No additional application form, fingerprints, or fee are required under this  
331 Subsection (2).

332 Section 8. Section **53-5-707** is amended to read:

333 **53-5-707. Permit -- Fees -- Disposition.**

334 (1) (a) Each applicant for a permit shall pay a fee of \$35 at the time of filing an  
335 application.

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

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

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

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

341 (5) ~~(a)~~ The ~~[division]~~ bureau shall use the fees collected under Subsections (1), (2),  
342 (3), and (4) as a dedicated credit to cover the costs of issuing concealed firearm permits under  
343 this part.

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

348 (6) (a) The ~~[division]~~ bureau may collect any fees charged by an outside agency for  
349 additional services required by statute as a prerequisite for issuance of a permit.

350 (b) The ~~[division]~~ bureau shall promptly forward any fees collected under Subsection  
351 (6)(a) to the appropriate agency.

352 (7) The ~~[division]~~ bureau shall make an annual report to the Legislature's Law  
353 Enforcement and Criminal Justice Interim Committee on the amount and use of the fees  
354 collected under this section.

355 Section 9. Section **53-5-708** is amended to read:

356 **53-5-708. Permit -- Names private.**

357 (1) (a) ~~[When any permit is issued,] The bureau shall maintain a record [shall be~~  
358 ~~maintained in the office of the licensing authority] in its office of any permit issued under this~~  
359 ~~part.~~

360 (b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names,  
361 addresses, telephone numbers, dates of birth, and Social Security numbers of persons receiving  
362 permits are protected records under Subsection 63G-2-305(10).

363 (2) ~~[Copies] The bureau shall immediately file a copy of each permit [issued shall be~~  
364 ~~filed immediately by the licensing authority with the division] it issues under this part.~~

365 Section 10. Section **53-5-711** is amended to read:

366 **53-5-711. Law enforcement officials and judges -- Training requirements --**

367 **Qualification -- Revocation.**

368 (1) For purposes of this section and Section 76-10-523:

369 (a) "Judge" means a judge or justice of a court of record or court not of record, but does  
370 not include a judge pro tem or senior judge.

371 (b) "Law enforcement official of this state" means:

372 (i) a member of the Board of Pardons and Parole;

373 (ii) a district attorney, deputy district attorney, county attorney or deputy county  
374 attorney of a county not in a prosecution district;

375 (iii) the attorney general;

376 (iv) an assistant attorney general designated as a criminal prosecutor; or

377 (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

378 (2) To qualify for [~~the exemptions enumerated in~~] an exemption in Section 76-10-523,  
379 a law enforcement official or judge shall complete the following training requirements:

380 (a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and

381 (b) successfully complete an additional course of training as established by the  
382 commissioner of public safety designed to assist them while carrying out their official law  
383 enforcement and judicial duties as agents for the state or its political subdivisions.384 (3) Annual requalification requirements for law enforcement officials and judges shall  
385 be established by the:

386 (a) Board of Pardons and Parole by rule for its members;

387 (b) Judicial Council by rule for judges; and

388 (c) the district attorney, county attorney in a county not in a prosecution district, the  
389 attorney general, or city attorney by policy for prosecutors under their jurisdiction.390 (4) The [~~division~~] bureau may:391 (a) issue a certificate of qualification to a judge or law enforcement official who has  
392 completed the requirements of Subsection (1), which certificate of qualification is valid until  
393 revoked;394 (b) revoke the certificate of qualification of a judge or law enforcement official who  
395 fails to meet the annual requalification criteria established pursuant to Subsection (3); and

396 (c) certify instructors for the training requirements of this section.

397 Section 11. Section **76-10-501** is amended to read:

398 **76-10-501. Definitions.**

399 As used in this part:

400 (1) (a) "Antique firearm" means any firearm:

401 (i) (A) with a matchlock, flintlock, percussion cap, or similar type of ignition system;

402 and

403 (B) that was manufactured in or before 1898; or

404 (ii) that is a replica of any firearm described in this Subsection (1)(a), if the replica:

405 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed

406 ammunition; or

407 (B) uses rimfire or centerfire fixed ammunition which is:

408 (I) no longer manufactured in the United States; and

409 (II) is not readily available in ordinary channels of commercial trade; or

410 (iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

411 (B) is designed to use black powder, or a black powder substitute, and cannot use fixed

412 ammunition.

413 (b) "Antique firearm" does not include:

414 (i) any weapon that incorporates a firearm frame or receiver;

415 (ii) any firearm that is converted into a muzzle loading weapon; or

416 (iii) any muzzle loading weapon that can be readily converted to fire fixed ammunition

417 by replacing the:

418 (A) barrel;

419 (B) bolt;

420 (C) breechblock; or

421 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

422 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201

423 within the Department of Public Safety.

424 [~~(2)~~] (3) (a) "Concealed dangerous weapon" means a dangerous weapon that is  
425 covered, hidden, or secreted in a manner that the public would not be aware of its presence and  
426 is readily accessible for immediate use.

427 (b) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a  
428 firearm which is unloaded and is securely encased.

429           ~~[(3)]~~ (4) "Criminal history background check" means a criminal background check  
430 conducted by a licensed firearms dealer on every purchaser of a handgun through the division  
431 or the local law enforcement agency where the firearms dealer conducts business.

432           ~~[(4)]~~ (5) "Curio or relic firearm" means any firearm that:

433           (a) is of special interest to a collector because of a quality that is not associated with  
434 firearms intended for:

435           (i) sporting use;

436           (ii) use as an offensive weapon; or

437           (iii) use as a defensive weapon;

438           (b) (i) was manufactured at least 50 years prior to the current date; and

439           (ii) is not a replica of a firearm described in Subsection ~~[(4)]~~ (5)(b)(i);

440           (c) is certified by the curator of a municipal, state, or federal museum that exhibits  
441 firearms to be a curio or relic of museum interest;

442           (d) derives a substantial part of its monetary value:

443           (i) from the fact that the firearm is:

444           (A) novel;

445           (B) rare; or

446           (C) bizarre; or

447           (ii) because of the firearm's association with an historical:

448           (A) figure;

449           (B) period; or

450           (C) event; and

451           (e) has been designated as a curio or relic firearm by the director of the United States  
452 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 178.11.

453           ~~[(5)]~~ (6) (a) "Dangerous weapon" means any item that in the manner of its use or  
454 intended use is capable of causing death or serious bodily injury.

455           **(b)** The following factors shall be used in determining whether a knife, or any other  
456 item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon:

457           (i) the character of the instrument, object, or thing;

458           (ii) the character of the wound produced, if any;

459           (iii) the manner in which the instrument, object, or thing was used; and

460 (iv) the other lawful purposes for which the instrument, object, or thing may be used.

461 ~~[(b)]~~ (c) "Dangerous weapon" does not include any explosive, chemical, or incendiary  
462 device as defined by Section 76-10-306.

463 ~~[(6)]~~ (7) "Dealer" means ~~[every]~~ a person who is licensed under crimes and criminal  
464 procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise  
465 transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or  
466 otherwise.

467 ~~[(7)]~~ "Division" means ~~the Criminal Investigations and Technical Services Division of~~  
468 ~~the Department of Public Safety, created in Section 53-10-103.]~~

469 (8) "Enter" means intrusion of the entire body.

470 (9) (a) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or  
471 sawed-off rifle, or ~~[any]~~ a device that could be used as a dangerous weapon from which is  
472 expelled a projectile by action of an explosive.

473 (b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an  
474 antique firearm.

475 (10) "Firearms transaction record form" means a form created by the division to be  
476 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

477 (11) "Fully automatic weapon" means any firearm which fires, is designed to fire, or  
478 can be readily restored to fire, automatically more than one shot without manual reloading by a  
479 single function of the trigger.

480 (12) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded  
481 or unloaded, from which ~~[any]~~ a shot, bullet, or other missile can be discharged, the length of  
482 which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

483 (b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol  
484 or revolver" do not include an antique firearm.

485 (13) "House of worship" means a church, temple, synagogue, mosque, or other  
486 building set apart primarily for the purpose of worship in which religious services are held and  
487 the main body of which is kept for that use and not put to any other use inconsistent with its  
488 primary purpose.

489 (14) "Prohibited area" means ~~[any]~~ a place where it is unlawful to discharge a firearm.

490 (15) "Readily accessible for immediate use" means that a firearm or other dangerous



491 weapon is carried on the person or within such close proximity and in such a manner that it can  
492 be retrieved and used as readily as if carried on the person.

493 (16) "Residence" means an improvement to real property used or occupied as a primary  
494 or secondary residence.

495 (17) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or  
496 barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of  
497 fewer than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by  
498 alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer  
499 than 26 inches.

500 (18) "Securely encased" means not readily accessible for immediate use, such as held  
501 in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other  
502 storage area of a motor vehicle, not including a glove box or console box.

503 (19) "State entity" means [~~each~~] a department, commission, board, council, agency,  
504 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
505 unit, bureau, panel, or other administrative unit of the state.

506 (20) "Violent felony" [~~means the same~~] has the same meaning as defined in Section  
507 76-3-203.5.

508 Section 12. Section **76-10-526** is amended to read:

509 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
510 **Exemption for concealed firearm permit holders.**

511 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not  
512 include a temporary permit issued pursuant to Section 53-5-705.

513 (2) (a) To establish personal identification and residence in this state for purposes of  
514 this part, a dealer shall require an individual receiving a firearm to present one photo  
515 identification on a form issued by a governmental agency of the state.

516 (b) A dealer may not accept a driving privilege card issued in accordance with Section  
517 53-3-207 as proof of identification for the purpose of establishing personal identification and  
518 residence in this state as required under this Subsection (2).

519 (3) A criminal history background check is required for the sale of a firearm by a  
520 licensed firearm dealer in the state.

521 (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent

522 in writing to a criminal background check, on a form provided by the [~~division~~] bureau.

523 (b) The form shall contain the following information:

524 (i) the dealer identification number;

525 (ii) the name and address of the individual receiving the firearm;

526 (iii) the date of birth, height, weight, eye color, and hair color of the individual  
527 receiving the firearm; and

528 (iv) the Social Security number or any other identification number of the individual  
529 receiving the firearm.

530 (5) (a) The dealer shall send the form required by Subsection (4) to the [~~division~~]  
531 bureau immediately upon its completion.

532 (b) [~~No~~] A dealer [~~shall~~] may not sell or transfer [~~any~~] a firearm to an individual until  
533 the dealer has provided the [~~division~~] bureau with the information in Subsection (4) and has  
534 received approval from the [~~division~~] bureau under Subsection (7).

535 (6) The dealer shall make a request for criminal history background information by  
536 telephone or other electronic means to the [~~division~~] bureau and shall receive approval or  
537 denial of the inquiry by telephone or other electronic means.

538 (7) When the dealer calls for or requests a criminal history background check, the  
539 [~~division~~] bureau shall:

540 (a) review the criminal history files, including juvenile court records, to determine if  
541 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or  
542 federal law;

543 (b) inform the dealer that:

544 (i) the records indicate the individual is so prohibited; or

545 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

546 (c) provide the dealer with a unique transaction number for that inquiry; and

547 (d) provide a response to the requesting dealer during the call for a criminal  
548 background, or by return call, or other electronic means, without delay, except in case of  
549 electronic failure or other circumstances beyond the control of the [~~division~~] bureau, the  
550 [~~division~~] bureau shall advise the dealer of the reason for the delay and give the dealer an  
551 estimate of the length of the delay.

552 (8) (a) The [~~division shall~~] bureau may not maintain any records of the criminal history

553 background check longer than 20 days from the date of the dealer's request if the [division]  
554 bureau determines that the individual receiving the gun is not prohibited from purchasing,  
555 possessing, or transferring the firearm under state or federal law.

556 (b) However, the [division] bureau shall maintain a log of requests containing the  
557 dealer's federal firearms number, the transaction number, and the transaction date for a period  
558 of 12 months.

559 (9) If the criminal history background check discloses information indicating that the  
560 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or  
561 transferring a firearm, the [division] bureau shall inform the law enforcement agency in the  
562 jurisdiction where the person resides.

563 (10) If an individual is denied the right to purchase a firearm under this section, the  
564 individual may review the individual's criminal history information and may challenge or  
565 amend the information as provided in Section 53-10-108.

566 (11) The [division] bureau shall make rules as provided in Title 63G, Chapter 3, Utah  
567 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all  
568 records provided by the division pursuant to this part are in conformance with the requirements  
569 of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

570 (12) (a) (i) [~~All dealers~~] A dealer shall collect a criminal history background check fee  
571 related to the sale of a firearm under this section, which is \$7.50.

572 (ii) This fee remains in effect until changed by the [division] bureau through the  
573 process under Section 63J-1-504.

574 (b) (i) The dealer shall forward at one time all fees collected for criminal history  
575 background checks performed during the month to the [division] bureau by the last day of the  
576 month following the sale of a firearm.

577 (ii) The [division] bureau shall deposit the fees in the General Fund as dedicated  
578 credits to cover the cost of administering and conducting the criminal history background  
579 check program.

580 (13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter  
581 5, Part 7, Concealed [~~Weapon~~] Firearm Act, [~~shall be~~] is exempt from the background check  
582 and corresponding fee required in this section for the purchase of a firearm if:

583 (a) the individual presents the individual's concealed firearm permit to the dealer prior

584 to purchase of the firearm; and

585 (b) the dealer verifies with the division that the individual's concealed firearm permit is

586 valid.

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**H.B. 214 1st Sub. (Buff) - Concealed Firearm Permit Modifications**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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