

CONCEALED FIREARM PERMIT

MODIFICATIONS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca D. Lockhart

Senate Sponsor: _____

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:

None

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



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 Liquified 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 finds proof~~
136 ~~that the applicant is not of good character~~].

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

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

140 (2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the
141 applicant or permit holder does not demonstrate good character.

142 (b) An applicant or permit holder does not demonstrate good character if the applicant
143 or permit holder:

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

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

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

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

149 (v) has [~~not~~] been or is convicted of an offense involving moral turpitude;

150 (vi) has [~~not~~] been or is convicted of an offense involving domestic violence;

151 (vii) has [~~not~~] been or is adjudicated by a state or federal court as mentally

152 incompetent, unless the adjudication has been withdrawn or reversed; and

153 (viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503
154 and federal law.

155 ~~[(b)]~~ (c) In assessing good character under Subsection (2)~~[(a)]~~, the ~~[licensing authority]~~
156 bureau shall consider mitigating circumstances.

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

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

161 (ii) past participation in incidents involving unlawful violence or threats of unlawful
162 violence; or

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

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

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

169 (i) expunged records of arrests and convictions of adults as provided in Section
170 77-18-15; and

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

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

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

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

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

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

182 (b) one recent dated photograph;

183 (c) one set of fingerprints; and

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

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

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

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

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

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

199 (i) completion of a course of instruction conducted by a national, state, or local
200 firearms training organization approved by the ~~[division]~~ bureau;

201 (ii) certification of general familiarity by a person who has been certified by the
202 ~~[division]~~ bureau, which may include a law enforcement officer, military or civilian firearms
203 instructor, or hunter safety instructor; or

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

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

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

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

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

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

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

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

215 (b) An instructor's certification is valid for three years from the date of issuance, unless
216 revoked by the ~~[division]~~ bureau.

217 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall
218 attend an instructional course and pass a test under the direction of the ~~[division]~~ bureau.

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

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

223 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of
224 \$50.00 at the time of application for initial certification.

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

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

229 (9) A certified concealed firearms instructor shall provide each of the instructor's
230 students with the required course of instruction outline approved by the ~~[division]~~ bureau.

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

233 (ii) The instructor shall sign the certificate with the exact name indicated on the
234 instructor's certification issued by the ~~[division]~~ bureau under Subsection (8).

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

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

239 (C) The ~~[division]~~ bureau shall determine the design and content of the seal to include
240 at least the following:

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

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

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

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

248 (b) The applicant shall provide the certificate to the [~~division~~] bureau in compliance
249 with Subsection (5)(d).

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

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

253 (b) knowingly and willfully provided false information to the [~~division~~] bureau.

254 (12) [~~A~~] An applicant for certification or a concealed firearms instructor has the same
255 appeal rights as set forth in Subsection (15).

256 (13) In providing instruction and issuing a permit under this part, the concealed
257 firearms instructor and the [~~licensing authority~~] bureau are not vicariously liable for damages
258 caused by the permit holder.

259 (14) An individual who knowingly and willfully provides false information on an
260 application filed under this part is guilty of a class B misdemeanor, and the application may be
261 denied, or the permit may be suspended or revoked.

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

266 (b) The bureau's denial of a permit shall be in writing and shall include the general
267 reasons for the action.

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

271 (d) On appeal to the board, the [~~agency~~] bureau has the burden of proof by a
272 preponderance of the evidence.

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

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

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

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

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

281 **53-5-705. Temporary permit to carry concealed firearm -- Denial, suspension, or**
282 **revocation -- Appeal.**

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

- 285 (a) has applied for a permit under Section 53-5-704;
- 286 (b) has applied for a temporary permit under this section; and
- 287 (c) meets the criteria required in Subsections (2) and (3).

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

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

294 (4) A temporary permit is valid only for a maximum of 90 days or any lesser period
295 specified by the [~~division~~] bureau, or until a permit under Section 53-5-704 is issued to the
296 holder of the temporary permit, whichever period is shorter.

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

- 299 (a) the circumstances justifying the temporary permit no longer exist; or
- 300 (b) the holder of the temporary permit does not meet the requirements for a permit
301 under Section 53-5-704.

302 (6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing
303 and shall include the reasons for the action.

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

306 (c) Denial, suspension, or revocation under this subsection is final action for purposes

307 of judicial review under Section 63G-4-402.

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

309 **53-5-706. Permit -- Fingerprints transmitted to bureau -- Report from bureau.**

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

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

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

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

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

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

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

331 **53-5-707. Permit -- Fees -- Disposition.**

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

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

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

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

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

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

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

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

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

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

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

354 **53-5-708. Permit -- Names private.**

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

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

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

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

364 **53-5-711. Law enforcement officials and judges -- Training requirements --**
365 **Qualification -- Revocation.**

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

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

- 369 (b) "Law enforcement official of this state" means:
- 370 (i) a member of the Board of Pardons and Parole;
- 371 (ii) a district attorney, deputy district attorney, county attorney or deputy county
- 372 attorney of a county not in a prosecution district;
- 373 (iii) the attorney general;
- 374 (iv) an assistant attorney general designated as a criminal prosecutor; or
- 375 (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.
- 376 (2) To qualify for [~~the exemptions enumerated in~~] an exemption in Section 76-10-523,
- 377 a law enforcement official or judge shall complete the following training requirements:
- 378 (a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and
- 379 (b) successfully complete an additional course of training as established by the
- 380 commissioner of public safety designed to assist them while carrying out their official law
- 381 enforcement and judicial duties as agents for the state or its political subdivisions.
- 382 (3) Annual requalification requirements for law enforcement officials and judges shall
- 383 be established by the:
- 384 (a) Board of Pardons and Parole by rule for its members;
- 385 (b) Judicial Council by rule for judges; and
- 386 (c) the district attorney, county attorney in a county not in a prosecution district, the
- 387 attorney general, or city attorney by policy for prosecutors under their jurisdiction.
- 388 (4) The [~~division~~] bureau may:
- 389 (a) issue a certificate of qualification to a judge or law enforcement official who has
- 390 completed the requirements of Subsection (1), which certificate of qualification is valid until
- 391 revoked;
- 392 (b) revoke the certificate of qualification of a judge or law enforcement official who
- 393 fails to meet the annual requalification criteria established pursuant to Subsection (3); and
- 394 (c) certify instructors for the training requirements of this section.
- 395 Section 11. Section **76-10-501** is amended to read:
- 396 **76-10-501. Definitions.**
- 397 As used in this part:
- 398 (1) (a) "Antique firearm" means any firearm:
- 399 (i) (A) with a matchlock, flintlock, percussion cap, or similar type of ignition system;

400 and

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

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

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

404 ammunition; or

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

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

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

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

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

410 ammunition.

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

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

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

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

415 by replacing the:

416 (A) barrel;

417 (B) bolt;

418 (C) breechblock; or

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

420 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
421 within the Department of Public Safety.

422 [~~(2)~~] (3) (a) "Concealed dangerous weapon" means a dangerous weapon that is
423 covered, hidden, or secreted in a manner that the public would not be aware of its presence and
424 is readily accessible for immediate use.

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

427 [~~(3)~~] (4) "Criminal history background check" means a criminal background check
428 conducted by a licensed firearms dealer on every purchaser of a handgun through the division
429 or the local law enforcement agency where the firearms dealer conducts business.

430 [~~(4)~~] (5) "Curio or relic firearm" means any firearm that:

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

433 (i) sporting use;

434 (ii) use as an offensive weapon; or

435 (iii) use as a defensive weapon;

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

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

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

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

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

442 (A) novel;

443 (B) rare; or

444 (C) bizarre; or

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

446 (A) figure;

447 (B) period; or

448 (C) event; and

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

451 [~~(5)~~] (6) (a) "Dangerous weapon" means any item that in the manner of its use or
452 intended use is capable of causing death or serious bodily injury.

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

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

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

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

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

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

461 [~~(6)~~] (7) "Dealer" means [~~every~~] a person who is licensed under crimes and criminal

462 procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise
463 transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or
464 otherwise.

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

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

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

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

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

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

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

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

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

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

488 (15) "Readily accessible for immediate use" means that a firearm or other dangerous
489 weapon is carried on the person or within such close proximity and in such a manner that it can
490 be retrieved and used as readily as if carried on the person.

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

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

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

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

504 (20) "Violent felony" ~~[means the same]~~ has the same meaning as defined in Section
505 76-3-203.5.

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

507 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
508 **Exemption for concealed firearm permit holders.**

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

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

514 (b) A dealer may not accept a driving privilege card issued in accordance with Section
515 53-3-207 as proof of identification for the purpose of establishing personal identification and
516 residence in this state as required under this Subsection (2).

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

519 (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent
520 in writing to a criminal background check, on a form provided by the ~~[division]~~ bureau.

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

522 (i) the dealer identification number;

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

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

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

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

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

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

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

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

541 (b) inform the dealer that:

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

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

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

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

550 (8) (a) The [~~division shall~~] bureau may not maintain any records of the criminal history
551 background check longer than 20 days from the date of the dealer's request if the [~~division~~]
552 bureau determines that the individual receiving the gun is not prohibited from purchasing,
553 possessing, or transferring the firearm under state or federal law.

554 (b) However, the [~~division~~] bureau shall maintain a log of requests containing the

555 dealer's federal firearms number, the transaction number, and the transaction date for a period
556 of 12 months.

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

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

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

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

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

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

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

578 (13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter
579 5, Part 7, Concealed ~~[Weapon]~~ Firearm Act, ~~[shall be]~~ is exempt from the background check
580 and corresponding fee required in this section for the purchase of a firearm if:

581 (a) the individual presents the individual's concealed firearm permit to the dealer prior
582 to purchase of the firearm; and

583 (b) the dealer verifies with the division that the individual's concealed firearm permit is
584 valid.

Legislative Review Note
as of 11-13-09 8:16 AM

Office of Legislative Research and General Counsel

H.B. 214 - Concealed Firearm Permit Modifications

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

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.
