

HB0257S01 compared with HB0257

~~{deleted text}~~ shows text that was in HB0257 but was deleted in HB0257S01.

inserted text shows text that was not in HB0257 but was inserted into HB0257S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Ronda Rudd Menlove proposes the following substitute bill:

CONCEALED FIREARM ACT MODIFICATIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Concealed Firearm Act regarding the requirements for certification as a concealed firearms instructor and the submission of fingerprints for a criminal background check.

Highlighted Provisions:

This bill:

- ▶ requires an applicant for certification as a concealed ~~{firearms}~~firearm instructor to have completed a ~~{current}~~firearm instruction training course from the National Rifle Association ~~{certification or post certification from the Utah Police Academy}~~or the Department of Public Safety, Division of Peace Officer Safety Standards and Training or their equivalent~~{ at the time of the initial request for certification;~~

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— provides that₂:

▸ requires submission of sufficient fingerprints to conduct a criminal background check for issuance of a concealed ~~firearms instructor seeking renewal of certification, who is a resident of the state, is not required to have a current National Rifle Association certification or its equivalent to obtain a renewal, and~~

— provides that an instructor seeking renewal, who is a resident of the state, is not required to have a current post certification from the Utah Police Academy or its equivalent, if the instructor was a peace officer at the time of issuance of the initial permit and has since retired from that profession or changed professions₃ firearm permit; and

▸ makes certain technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2010, Chapters 62 and 283

53-5-706, as last amended by Laws of Utah 2010, Chapter 62

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

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

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

(1) (a) The bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application, unless the bureau finds proof that the applicant does not meet the qualifications set forth in Subsection (2).

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

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(c) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to a person issued a permit under Subsection (1)(a).

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

- (i) has been or is convicted of a felony;
- (ii) has been or is convicted of a crime of violence;
- (iii) has been or is convicted of an offense involving the use of alcohol;
- (iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;
- (v) has been or is convicted of an offense involving moral turpitude;
- (vi) has been or is convicted of an offense involving domestic violence;
- (vii) has been or is adjudicated by a state or federal court as mentally incompetent,

unless the adjudication has been withdrawn or reversed; and

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

(b) In determining whether an applicant or permit holder meets the qualifications set forth in Subsection (2)(a), the bureau shall consider mitigating circumstances.

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

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

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

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

- (i) expunged records of arrests and convictions of adults as provided in Section 77-40-109; and
- (ii) juvenile court records as provided in Section 78A-6-209.

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

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

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

(5) Except as provided in Subsection (6), the bureau shall also require the applicant to provide:

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

(b) one recent dated photograph;

(c) one set of fingerprints; and

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

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

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

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

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

(b) An applicant may satisfy the general familiarity requirement of Subsection (7)(a) by one of the following:

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

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

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

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

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

(i) be at least 21 years of age;

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

~~[(iii) have a current National Rifle Association certification or ~~{}~~ its ~~{}~~ post certification from the Utah Police Academy or their]~~ equivalent as determined by the division ~~{~~ at the time of the initial request for certification; and

~~—— (iv) ~~}~~; and]~~

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or the Department of Public Safety, Division of Peace Officer Safety Standards and Training;
or

(B) received training equivalent to one of the courses referred to in Subsection (8)(a)(iii)(A) as determined by the bureau.

(iv) have taken a course of instruction and passed a certification test as described in Subsection (8)(c).

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

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

~~{}~~(ii) ~~{ An instructor, who is a resident of the state, is not required to have:~~
~~—— } (A) { a current National Rifle Association certification or its equivalent to obtain a renewal certification; or~~

~~—— (B) a current post certification from the Utah Police Academy or its equivalent to obtain a renewal certification if the instructor was a peace officer at the time of issuance of the initial instructor's permit under Subsections (8)(a) and (b) and has since retired from that profession or changed professions.~~

~~—— [(ii) (iii) (A)]~~ The bureau shall provide or contract to provide the course referred to in

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Subsection (8)(c)(i) twice every year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) The ~~division~~ bureau may deny, suspend, or revoke the certification of an

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applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

- (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or
- (b) knowingly and willfully provided false information to the bureau.

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

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

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

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

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

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

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

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

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

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

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

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Legislative Review Note

~~as of 1-27-11 8:34 AM~~

~~Office of Legislative Research and General Counsel;~~ Section 2. Section 53-5-706 is amended to read:

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

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

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

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

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

(c) If the fingerprints are insufficient for the bureau of Federal Bureau of Investigation to conduct a search of its files for criminal history information, the application or concealed firearm permit may be denied, suspended, or revoked until sufficient fingerprints are submitted by the applicant.

(2) (a) If the permit applicant has previously applied to the [same licensing authority] bureau for a permit to carry concealed firearms [and the applicant's fingerprints and fee have been previously forwarded within one year to the division], the bureau shall note the previous identification numbers and other data which would provide positive identification in the files of the bureau on the copy of any subsequent permit submitted to the bureau in accordance with this section.

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

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