

1 **CONCEALED FIREARM ACT AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Curtis Oda

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Concealed Firearm Act related to the issuance of
10 concealed firearm permits to nonresidents.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires a nonresident applicant for a concealed firearm permit to hold a current
14 concealed firearm or concealed weapon permit from the applicant's state of
15 residency that recognizes the validity of the Utah permit in that state or has
16 reciprocity with the Utah concealed firearm permit law; and

17 ▶ requires a nonresident applicant to pay an additional \$5 processing fee for the
18 issuance of the permit.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **53-5-704**, as last amended by Laws of Utah 2010, Chapters 62 and 283

26 **53-5-707**, as last amended by Laws of Utah 2010, Chapter 62

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

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

30 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**
31 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
32 **suspension, or revocation -- Appeal procedure.**

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

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

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

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

43 (i) has been or is convicted of a felony;

44 (ii) has been or is convicted of a crime of violence;

45 (iii) has been or is convicted of an offense involving the use of alcohol;

46 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
47 other controlled substances;

48 (v) has been or is convicted of an offense involving moral turpitude;

49 (vi) has been or is convicted of an offense involving domestic violence;

50 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
51 unless the adjudication has been withdrawn or reversed; and

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

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

56 (3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has
57 reasonable cause to believe that the applicant or permit holder has been or is a danger to self or

58 others as demonstrated by evidence, including:

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

60 (ii) past participation in incidents involving unlawful violence or threats of unlawful
61 violence; or

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

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

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

67 (i) expunged records of arrests and convictions of adults as provided in Section
68 77-40-109; and

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

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

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

74 (4) (a) In addition to meeting the other qualifications for the issuance of a concealed
75 firearm permit under this section, a nonresident applicant who resides in a state that recognizes
76 the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law
77 shall:

78 (i) hold a current concealed firearm or concealed weapon permit issued by the
79 appropriate permitting authority of the nonresident applicant's state of residency; and

80 (ii) submit a photocopy or electronic copy of the nonresident applicant's current
81 concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

82 (b) A nonresident applicant who knowingly and willfully provides false information to
83 the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit
84 for a period of 10 years.

85 (c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm

86 permit that are received by the bureau after May 10, 2011.

87 (d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for
88 renewal of a concealed firearm permit by a nonresident.

89 ~~[(4) A]~~ (5) The bureau shall issue a concealed firearm permit to a former peace officer
90 who departs full-time employment as a peace officer, in an honorable manner, [shall be issued
91 a concealed firearm permit] within five years of that departure if the officer meets the
92 requirements of this section.

93 ~~[(5)]~~ (6) Except as provided in Subsection ~~[(6)]~~ (7), the bureau shall also require the
94 applicant to provide:

- 95 (a) the address of the applicant's permanent residence;
- 96 (b) one recent dated photograph;
- 97 (c) one set of fingerprints; and
- 98 (d) evidence of general familiarity with the types of firearms to be concealed as defined
99 in Subsection ~~[(7)]~~ (8).

100 ~~[(6)]~~ (7) An applicant who is a law enforcement officer under Section 53-13-103 may
101 provide a letter of good standing from the officer's commanding officer in place of the evidence
102 required by Subsection ~~[(5)]~~ (6)(d).

103 ~~[(7)]~~ (8) (a) General familiarity with the types of firearms to be concealed includes
104 training in:

- 105 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
106 concealed; and
- 107 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
108 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
109 concealment.

110 (b) An applicant may satisfy the general familiarity requirement of Subsection ~~[(7)]~~
111 (8)(a) by one of the following:

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

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

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

119 (c) Instruction taken by a student under Subsection ~~[(7)] (8)~~ shall be in person and not
120 through electronic means.

121 ~~[(8)] (9)~~ (a) An applicant for certification as a Utah concealed firearms instructor shall:

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

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

125 (iii) have a current National Rifle Association certification or its equivalent as
126 determined by the division; ~~[and]~~

127 (iv) have taken a course of instruction and passed a certification test as described in
128 Subsection ~~[(8)] (9)(c)[-]; and~~

129 (v) possess a Utah concealed firearm permit.

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

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

134 (ii) (A) The bureau shall provide or contract to provide the course referred to in
135 Subsection ~~[(8)] (9)(c)(i)~~ twice every year.

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

138 (d) (i) Each applicant for certification under this Subsection ~~[(8)] (9)~~ shall pay a fee of
139 \$50.00 at the time of application for initial certification.

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

141 (iii) The ~~[fees]~~ bureau may use a fee paid under Subsections ~~[(8)] (9)(d)(i)~~ and (ii)

142 [~~may be used by the bureau~~] as a dedicated credit to cover the cost incurred in maintaining and
143 improving the instruction program required for concealed firearm instructors under this
144 Subsection [~~(8)~~] (9).

145 [~~(9)~~] (10) A certified concealed firearms instructor shall provide each of the instructor's
146 students with the required course of instruction outline approved by the bureau.

147 [~~(10)~~] (11) (a) (i) A concealed firearms instructor [~~is required to~~] shall provide a signed
148 certificate to a person successfully completing the offered course of instruction.

149 (ii) The instructor shall sign the certificate with the exact name indicated on the
150 instructor's certification issued by the bureau under Subsection [~~(8)~~] (9).

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

153 (B) The instructor shall destroy the seal upon revocation or expiration of the
154 instructor's certification under Subsection [~~(8)~~] (9).

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

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

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

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

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

164 (b) The applicant shall provide the certificate to the bureau in compliance with
165 Subsection [~~(5)~~] (6)(d).

166 [~~(11)~~] (12) The division may deny, suspend, or revoke the certification of an applicant
167 or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

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

169 (b) knowingly and willfully provided false information to the bureau.

170 ~~[(12)]~~ (13) An applicant for certification or a concealed firearms instructor has the
171 same appeal rights as set forth in Subsection ~~[(15)]~~ (16).

172 ~~[(13)]~~ (14) In providing instruction and issuing a permit under this part, the concealed
173 firearms instructor and the bureau are not vicariously liable for damages caused by the permit
174 holder.

175 ~~[(14)]~~ (15) An individual who knowingly and willfully provides false information on
176 an application filed under this part is guilty of a class B misdemeanor, and the application may
177 be denied, or the permit may be suspended or revoked.

178 ~~[(15)]~~ (16) (a) In the event of a denial, suspension, or revocation of a permit, the
179 applicant or permit holder may file a petition for review with the board within 60 days from the
180 date the denial, suspension, or revocation is received by the applicant or permit holder by
181 certified mail, return receipt requested.

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

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

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

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

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

192 (iii) The final order is final bureau action for purposes of judicial review under Section
193 63G-4-402.

194 ~~[(16)]~~ (17) The commissioner may make rules in accordance with Title 63G, Chapter
195 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

196 Section 2. Section **53-5-707** is amended to read:

197 **53-5-707. Permit -- Fees -- Disposition.**

198 (1) (a) Each applicant for a permit shall pay a fee of \$35 at the time of filing an
199 application, except that a nonresident applicant shall pay an additional \$5 for the additional
200 cost of processing a nonresident application.

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

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

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

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

206 (5) The bureau shall use the fees collected under Subsections (1), (2), (3), and (4) as a
207 dedicated credit to cover the costs of issuing concealed firearm permits under this part.

208 (6) (a) The bureau may collect any fees charged by an outside agency for additional
209 services required by statute as a prerequisite for issuance of a permit.

210 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the
211 appropriate agency.

212 (7) The bureau shall make an annual report to the Legislature's Law Enforcement and
213 Criminal Justice Interim Committee on the amount and use of the fees collected under this
214 section.