

SB0036S01 compared with SB0036

~~deleted text~~ shows text that was in SB0036 but was deleted in SB0036S01.

inserted text shows text that was not in SB0036 but was inserted into SB0036S01.

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Senator John L. Valentine proposes the following substitute bill:

CONCEALED FIREARM ACT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Curtis Oda

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ requires a nonresident applicant for a concealed firearm permit to hold a current concealed firearm or concealed weapon permit from the applicant's state of residency that recognizes the validity of the Utah permit in that state or has reciprocity with the Utah concealed firearm permit law; and
- ▶ requires a nonresident applicant to pay an additional \$5 processing fee for the issuance of the permit.

Money Appropriated in this Bill:

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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

53-5-707, 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) ~~{(i)} { }~~ The ~~{ }~~ ~~{Except as otherwise provided in Subsection (1)(a)(ii), 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).
- ~~{ (ii) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant shall:~~
- ~~—— (A) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency that recognizes the validity of the Utah permit in that state or has reciprocity with Utah's concealed firearm permit law; and~~
- ~~—— (B) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (1)(a)(ii)(A);~~
- ~~—— (iii) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (1)(a)(ii) is prohibited from holding a Utah concealed firearm permit for a period of 10 years;~~
- ~~—— (iv) Beginning January 1, 2012, Subsection (1)(a)(ii) also applies to an application for renewal of a concealed firearm permit by a nonresident.~~
- ~~} (b) The permit is valid throughout the state for five years, without restriction, except as~~

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otherwise provided by Section 53-5-710.

(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~~] of 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

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

(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) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency that recognizes the validity of the Utah permit in that state or has reciprocity with Utah's concealed firearm permit law; and

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

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

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

~~[(4) (A)]~~ (5) The bureau shall issue a concealed firearm permit to 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)]~~ (6) Except as provided in Subsection ~~[(6)]~~ (7), 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)]~~ (8).

~~[(6)]~~ (7) 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

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required by Subsection ~~[(5)](6)~~(d).

~~[(7)](8)~~ (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) ~~[(7)]~~ An applicant may satisfy the general familiarity requirement of Subsection ~~[(7)]~~ ~~[(8)]~~(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

(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)](8)~~ shall be in person and not through electronic means.

~~[(8)](9)~~ (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 equivalent as determined by the division; ~~[and]~~

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

(v) ~~[(8)](9)~~ ~~be eligible to~~ possess a Utah concealed firearm permit.

(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

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attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection ~~[(8)](9)~~(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)](9)~~ 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]~~ bureau may use a fee paid under Subsections ~~[(8)](9)~~(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)~~.

~~[(9)](10)~~ 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)](11)~~ (a) (i) A concealed firearms instructor ~~[is required to]~~ shall 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)](9)~~.

(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)](9)~~.

(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.

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

~~[(11)]~~[(12)] The division may deny, suspend, or revoke the certification of an 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)]~~[(13)] An applicant for certification or a concealed firearms instructor has the same appeal rights as set forth in Subsection ~~[(15)]~~[(16)].

~~[(13)]~~[(14)] 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)]~~[(15)] 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)]~~[(16)] (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 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)]~~[(17)] The commissioner may make rules in accordance with Title 63G, Chapter

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3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

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

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

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

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

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

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

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

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

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

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

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

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Legislative Review Note

~~as of 10-20-10 4:35 PM~~

~~Office of Legislative Research and General Counsel~~