

**Representative Stephen E. Sandstrom** proposes the following substitute bill:

**FIREARMS AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen E. Sandstrom**

Senate Sponsor: Margaret Dayton

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**LONG TITLE**

**General Description:**

This bill amends provisions of Title 53, Chapter 5, Part 7, Concealed Firearm Act, related to the denial, suspension, or revocation of a concealed firearm permit and Title 76, Chapter 10, Part 5, Weapons, regarding restrictions on the possession, purchase, transfer, and ownership of firearms by certain persons.

**Highlighted Provisions:**

This bill:

~~H→ [→ provides that the Bureau of Criminal Identification may, rather than shall, deny, suspend, or revoke a concealed firearm permit on the basis of an indictment for a crime of violence in any state, but shall reverse that action upon notice of dismissal of the indictment or acquittal;] ←H~~

▶ provides an affirmative defense for Category I and II restricted persons charged with possession or transfer of firearms or other dangerous weapons;

▶ makes it a crime to sell, transfer, or dispose of a firearm to a Category I or Category II restricted person;

▶ provides that a Category I restricted person includes illegal aliens; and

▶ makes certain technical changes.

**Money Appropriated in this Bill:**



57 unless the adjudication has been withdrawn or reversed; and

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

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

62 (3) (a) ~~H~~→ ~~(i)~~ ←~~H~~ The bureau may deny, suspend, or revoke a concealed firearm permit if  
62a it has

63 reasonable cause to believe that the applicant or permit holder has been or is a danger to self or  
64 others as demonstrated by evidence, including:

65 ~~H~~→ ~~(i)~~ ~~(A)~~ ←~~H~~ past pattern of behavior involving unlawful violence  
65a or threats of unlawful  
66 violence;

67 ~~H~~→ ~~(ii)~~ ~~(B)~~ ←~~H~~ past participation in incidents involving unlawful violence or  
67a threats of  
68 unlawful violence; [or]

69 ~~H~~→ ~~(iii)~~ ~~(C)~~ ←~~H~~ conviction of an offense in violation of Title 76,  
69a Chapter 10, Part 5,  
70 Weapons.

71 ~~H~~→ ~~[(ii) The bureau shall immediately reverse any action taken that was based primarily on~~  
72 ~~an indictment or bindover under Subsection (3)(a)(i)(D) upon notice:~~

73 ~~— (A) that the indictment or bindover has been dismissed, or~~

74 ~~— (B) of acquittal of the person charged.] ←~~H~~~~

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

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

79 (i) expunged records of arrests and convictions of adults as provided in Section  
80 77-40-109; and

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

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

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

86 (4) (a) In addition to meeting the other qualifications for the issuance of a concealed  
87 firearm permit under this section, a nonresident applicant who resides in a state that recognizes

243 (a) any firearm is guilty of a third degree felony; or

244 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

245 (4) A person may be subject to the restrictions of both categories at the same time.

246 (5) If a higher penalty than is prescribed in this section is provided in another section  
247 for one who purchases, transfers, possesses, uses, or has under this custody or control any  
248 dangerous weapon, the penalties of that section control.

249 (6) It is an affirmative defense to a charge based on the definition in Subsection  
250 (1)(b)(iv) that the person was:

251 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner  
252 for use of a member of the person's household or for administration to an animal owned by the  
253 person or a member of the person's household; or

254 (b) otherwise authorized by law to possess the substance.

255 (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon  
256 by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

257 (i) was possessed by the person or was under the person's custody or control before the  
258 person became a restricted person;

259 (ii) was not used in or possessed during the commission of a crime or subject to  
260 disposition under Section 76-10-525;

261 (iii) is not being held as evidence by a court or law enforcement agency;

262 (iv) was transferred to a person not legally prohibited from possessing the weapon; and

263 (v) unless a different time is ordered by the court, was transferred within 10 days of the  
264 person becoming a restricted person.

265 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person  
266 of a firearm or other dangerous weapon by a restricted person.

267 (8) ~~H~~→ (a) ←~~H~~ A person may not sell, transfer, or otherwise dispose of any  
267a firearm or dangerous

268 weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or  
269 (b).

269a **~~H~~→ (b) A person who violates Subsection (8)(a) when the recipient is:**

269b **(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is**  
269c **guilty of a second degree felony;**

269d **(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous**  
269e **weapon other than a firearm, is guilty of a third degree felony;**

269f **(iii) a person described in Subsection (1)(b) and the transaction involves a firearm,**

269g is guilty of a third degree felony; or

269h (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous  
269i weapon other than a firearm, is guilty of a class A misdemeanor. ←H

270 (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or  
271 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under  
272 circumstances which the person knows would be a violation of the law.

273 (b) A person may not provide to a dealer or other person what the person knows to be