

**BACKGROUND CHECK FEE EXEMPTION FOR FIREARM
PURCHASE**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad J. Galvez

Senate Sponsor: Stuart C. Reid

LONG TITLE

General Description:

This bill provides an exemption to the background check fee requirement for law enforcement officers.

Highlighted Provisions:

This bill:

▶ allows a law enforcement officer currently employed and in good standing to purchase a firearm without paying the requisite background check fee as long as the dealer verifies the officer's employment and standing with the employing agency ~~§~~ → [~~§~~ → , and

16a ~~→ requires a dealer who provides a firearm to a law enforcement officer to use the~~

16b ~~NCIS system to run the background check ←§] ←§ .~~

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-526, as last amended by Laws of Utah 2011, Chapter 160

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

Section 1. Section **76-10-526** is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee --

H.B. 99



28 **Exemption for concealed firearm permit holders and law enforcement officers.**

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

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

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

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

39 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
40 Licensee.

41 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
42 criminal background check, on a form provided by the bureau.

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

44 (i) the dealer identification number;

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

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

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

50 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
51 immediately upon its receipt by the dealer.

52 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
53 provided the bureau with the information in Subsection (4) and has received approval from the
54 bureau under Subsection (7).

55 (6) The dealer shall make a request for criminal history background information by
56 telephone or other electronic means to the bureau and shall receive approval or denial of the
57 inquiry by telephone or other electronic means.

58 (7) When the dealer calls for or requests a criminal history background check, the

59 bureau shall:

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

63 (b) inform the dealer that:

64 (i) the records indicate the individual is prohibited; or

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

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

67 (d) provide a response to the requesting dealer during the call for a criminal
68 background, or by return call, or other electronic means, without delay, except in case of
69 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
70 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
71 delay.

72 (8) (a) The bureau may not maintain any records of the criminal history background
73 check longer than 20 days from the date of the dealer's request, if the bureau determines that
74 the individual receiving the firearm is not prohibited from purchasing, possessing, or
75 transferring the firearm under state or federal law.

76 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
77 firearms number, the transaction number, and the transaction date for a period of 12 months.

78 (9) If the criminal history background check discloses information indicating that the
79 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
80 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction
81 where the individual resides.

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

85 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
86 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
87 records provided by the bureau under this part are in conformance with the requirements of the
88 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

89 (12) (a) (i) A dealer shall collect a criminal history background check fee of \$7.50 for

90 the sale of a firearm under this section.

91 (ii) This fee remains in effect until changed by the bureau through the process under
92 Section 63J-1-504.

93 (b) (i) The dealer shall forward at one time all fees collected for criminal history
94 background checks performed during the month to the bureau by the last day of the month
95 following the sale of a firearm.

96 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover
97 the cost of administering and conducting the criminal history background check program.

98 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
99 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
100 required in this section for the purchase of a firearm if:

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

103 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
104 valid.

105 ~~(14) A law enforcement officer, as defined in Section 53-13-103, is~~
105a ~~exempt~~
105a ~~from the~~
106 ~~background check fee required in this section for the purchase of a personal firearm to~~
106a ~~be carried while off-duty if the dealer verifies~~
107 ~~with the employing agency that the law enforcement officer verifies current~~
107a ~~employment by providing a letter of good standing from the officer's commanding officer and~~
107b ~~current law enforcement photo identification. [is currently employed and in good~~
108 ~~standing as of the date of purchase.] This Section may only be used by a law~~
108a ~~enforcement officer to purchase a personal firearm once in a 24-month period.~~
108b ~~A dealer who provides a firearm to a law enforcement officer under this Subsection~~
108c ~~shall use the National Instant Criminal Background Check System to run the background~~
108d ~~check required by the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat.~~
108e ~~1536 (1993).~~

Legislative Review Note

as of 1-24-12 7:55 AM

Office of Legislative Research and General Counsel

Senate 2nd Reading Amendments 3-6-2012 kh/ecm

Senate Committee Amendments 3-1-2012 kh/ecm

- 4 - House Committee Amendments 2-6-2012 je/ecm