

FIREARM MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the definitions of firearm.

Highlighted Provisions:

This bill:

► changes the term "sawed-off" to "short barrel" when the term is applied to shotguns and rifles.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-501, as last amended by Laws of Utah 2011, Chapter 160

76-10-504, as last amended by Laws of Utah 2009, Chapter 362

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

Section 1. Section **76-10-501** is amended to read:

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:



28 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or
29 similar type of ignition system, manufactured in or before 1898; or

30 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the
31 replica:

32 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
33 ammunition; or

34 (B) uses rimfire or centerfire fixed ammunition which is:

35 (I) no longer manufactured in the United States; and

36 (II) is not readily available in ordinary channels of commercial trade; or

37 (iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

38 (B) is designed to use black powder, or a black powder substitute, and cannot use fixed
39 ammunition.

40 (b) "Antique firearm" does not include:

41 (i) a weapon that incorporates a firearm frame or receiver;

42 (ii) a firearm that is converted into a muzzle loading weapon; or

43 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by
44 replacing the:

45 (A) barrel;

46 (B) bolt;

47 (C) breechblock; or

48 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

49 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
50 within the Department of Public Safety.

51 (3) (a) "Concealed dangerous weapon" means a dangerous weapon that is:

52 (i) covered, hidden, or secreted in a manner that the public would not be aware of its
53 presence; and

54 (ii) readily accessible for immediate use.

55 (b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is
56 unloaded and is securely encased.

57 (4) "Criminal history background check" means a criminal background check
58 conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal

59 Firearms Licensee, through the bureau or the local law enforcement agency where the firearms
60 dealer conducts business.

61 (5) "Curio or relic firearm" means a firearm that:

62 (a) is of special interest to a collector because of a quality that is not associated with
63 firearms intended for:

64 (i) sporting use;

65 (ii) use as an offensive weapon; or

66 (iii) use as a defensive weapon;

67 (b) (i) was manufactured at least 50 years before the current date; and

68 (ii) is not a replica of a firearm described in Subsection (5)(b)(i);

69 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
70 firearms to be a curio or relic of museum interest;

71 (d) derives a substantial part of its monetary value:

72 (i) from the fact that the firearm is:

73 (A) novel;

74 (B) rare; or

75 (C) bizarre; or

76 (ii) because of the firearm's association with an historical:

77 (A) figure;

78 (B) period; or

79 (C) event; and

80 (e) has been designated as a curio or relic firearm by the director of the United States
81 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 178.11.

82 (6) (a) "Dangerous weapon" means an item that in the manner of its use or intended use
83 is capable of causing death or serious bodily injury.

84 (b) The following factors shall be used in determining whether a knife, or another item,
85 object, or thing not commonly known as a dangerous weapon is a dangerous weapon:

86 (i) the character of the instrument, object, or thing;

87 (ii) the character of the wound produced, if any;

88 (iii) the manner in which the instrument, object, or thing was used; and

89 (iv) the other lawful purposes for which the instrument, object, or thing may be used.

90 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
91 as defined by Section 76-10-306.

92 (7) "Dealer" means a person who is:

93 (a) licensed under 18 U.S.C. Sec. 923; and

94 (b) engaged in the business of selling, leasing, or otherwise transferring a handgun,
95 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

96 (8) "Enter" means intrusion of the entire body.

97 (9) "Federal Firearms Licensee" means a person who:

98 (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

99 (b) is engaged in the activities authorized by the specific category of license held.

100 (10) (a) "Firearm" means a pistol, revolver, shotgun, [~~sawed-off~~] short barrel shotgun,
101 rifle or [~~sawed-off~~] short barrel rifle, or a device that could be used as a dangerous weapon
102 from which is expelled a projectile by action of an explosive.

103 (b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an
104 antique firearm.

105 (11) "Firearms transaction record form" means a form created by the bureau to be
106 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

107 (12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can
108 be readily restored to fire, automatically more than one shot without manual reloading by a
109 single function of the trigger.

110 (13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded
111 or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which,
112 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

113 (b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol
114 or revolver" do not include an antique firearm.

115 (14) "House of worship" means a church, temple, synagogue, mosque, or other
116 building set apart primarily for the purpose of worship in which religious services are held and
117 the main body of which is kept for that use and not put to any other use inconsistent with its
118 primary purpose.

119 (15) "Prohibited area" means a place where it is unlawful to discharge a firearm.

120 (16) "Readily accessible for immediate use" means that a firearm or other dangerous

121 weapon is carried on the person or within such close proximity and in such a manner that it can
122 be retrieved and used as readily as if carried on the person.

123 (17) "Residence" means an improvement to real property used or occupied as a primary
124 or secondary residence.

125 [~~(19)~~] (18) "Securely encased" means not readily accessible for immediate use, such as
126 held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
127 storage area of a motor vehicle, not including a glove box or console box.

128 [~~(18)~~] (19) "Short barrel shotgun" or "~~[sawed-off]~~ short barrel rifle" means
129 a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle,
130 having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from
131 a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an
132 overall length of fewer than 26 inches.

133 (20) "State entity" means a department, commission, board, council, agency,
134 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
135 unit, bureau, panel, or other administrative unit of the state.

136 (21) "Violent felony" has the same meaning as defined in Section 76-3-203.5.

137 Section 2. Section **76-10-504** is amended to read:

138 **76-10-504. Carrying concealed dangerous weapon -- Penalties.**

139 (1) Except as provided in Section 76-10-503 and in Subsections (2), (3), and (4), a
140 person who carries a concealed dangerous weapon, as defined in Section 76-10-501, including
141 an unloaded firearm on his or her person or one that is readily accessible for immediate use
142 which is not securely encased, as defined in this part, in or on a place other than the person's
143 residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent
144 of the individual who is lawfully in possession of the vehicle, or business under the person's
145 control is guilty of a class B misdemeanor.

146 (2) A person who carries a concealed dangerous weapon which is a loaded firearm in
147 violation of Subsection (1) is guilty of a class A misdemeanor.

148 (3) A person who carries concealed [~~a sawed-off~~] an unlawfully possessed short barrel
149 shotgun or a [~~sawed-off~~] short barrel rifle is guilty of a second degree felony.

150 (4) If the concealed firearm is used in the commission of a violent felony as defined in
151 Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a second

152 degree felony.

153 (5) Nothing in Subsection (1) or (2) shall prohibit a person engaged in the lawful
154 taking of protected or unprotected wildlife as defined in Title 23, Wildlife Resources Code of
155 Utah, from carrying a concealed weapon or a concealed firearm [~~with a barrel length of four~~
156 ~~inches or greater~~] as long as the taking of wildlife does not occur:

- 157 (a) within the limits of a municipality in violation of that municipality's ordinances; or
158 (b) upon the highways of the state as defined in Section 41-6a-102.

Legislative Review Note
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Office of Legislative Research and General Counsel