

CONCEALED WEAPON PERMIT FOR SERVICE MEMBERS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill modifies the requirements for a concealed firearm permit for a United States active duty service member and spouse stationed in Utah.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for a concealed firearm permit for a United States military active duty service member and spouse who are not residents of the state but who are stationed in Utah;
- ▶ waives the concealed firearm permit renewal fee for active duty service member and spouse of an active duty service member who is stationed with the member; and
- ▶ defines active duty service member and spouse of an active duty service member.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-702, as last amended by Laws of Utah 2010, Chapter 62

53-5-704, as last amended by Laws of Utah 2012, Chapter 317

53-5-707, as last amended by Laws of Utah 2012, Chapter 65

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

30 Section 1. Section **53-5-702** is amended to read:

31 **53-5-702. Definitions.**

32 [~~(1)~~ ~~As~~] In addition to the definitions in Section 76-10-501, as used in this part:

33 (1) "Active duty service member" means a person on active military duty with the
34 United States military and includes full time military active duty, military reserve active duty,
35 and national guard military active duty service members stationed in Utah.

36 (2) "Active duty service member spouse" means a person recognized by the military as
37 the spouse of an active duty service member and who resides with the active duty service
38 member in Utah.

39 [~~(a)~~] (3) "Board" means the Concealed Firearm Review Board created in Section
40 53-5-703.

41 [~~(b)~~] (4) "Bureau" means the Bureau of Criminal Identification created in Section
42 53-10-201 within the Department of Public Safety.

43 [~~(c)~~] (5) "Commissioner" means the commissioner of the Department of Public Safety.

44 [~~(d)~~] (6) "Conviction" means criminal conduct where the filing of a criminal charge has
45 resulted in:

46 [~~(i)~~] (a) a finding of guilt based on evidence presented to a judge or jury;

47 [~~(ii)~~] (b) a guilty plea;

48 [~~(iii)~~] (c) a plea of nolo contendere;

49 [~~(iv)~~] (d) a plea of guilty or nolo contendere which is held in abeyance pending the
50 successful completion of probation;

51 [~~(v)~~] (e) a pending diversion agreement; or

52 [~~(vi)~~] (f) a conviction which has been reduced pursuant to Section 76-3-402.

53 [~~(2)~~ ~~The definitions in Section 76-10-501 apply to this part.~~]

54 Section 2. Section **53-5-704** is amended to read:

55 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**
56 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
57 **suspension, or revocation -- Appeal procedure.**

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

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

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

66 (d) Subsection (4)(a) does not apply to a nonresident:

67 (i) active duty service member, who present to the bureau orders requiring the active
68 duty service member to report for duty in this state; or

69 (ii) an active duty service member's spouse, stationed with the active duty service
70 member, who presents to the bureau the active duty service member's orders requiring the
71 service member to report for duty in this state.

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

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

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

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

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

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

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

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

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

85 (b) In determining whether an applicant or permit holder meets the qualifications set

86 forth in Subsection (2)(a), the bureau shall consider mitigating circumstances.

87 (3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has
88 reasonable cause to believe that the applicant or permit holder has been or is a danger to self or
89 others as demonstrated by evidence, including:

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

91 (ii) past participation in incidents involving unlawful violence or threats of unlawful
92 violence; or

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

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

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

98 (i) expunged records of arrests and convictions of adults as provided in Section
99 77-40-109; and

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

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

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

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

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

112 (c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm
113 permit that are received by the bureau after May 10, 2011.

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

116 (5) The bureau shall issue a concealed firearm permit to a former peace officer who
117 departs full-time employment as a peace officer, in an honorable manner, within five years of
118 that departure if the officer meets the requirements of this section.

119 (6) Except as provided in Subsection (7), the bureau shall also require the applicant to
120 provide:

121 (a) the address of the applicant's permanent residence;

122 (b) one recent dated photograph;

123 (c) one set of fingerprints; and

124 (d) evidence of general familiarity with the types of firearms to be concealed as defined
125 in Subsection (8).

126 (7) An applicant who is a law enforcement officer under Section 53-13-103 may
127 provide a letter of good standing from the officer's commanding officer in place of the evidence
128 required by Subsection (6)(d).

129 (8) (a) General familiarity with the types of firearms to be concealed includes training
130 in:

131 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
132 concealed; and

133 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
134 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
135 concealment.

136 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by
137 one of the following:

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

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

142 safety instructor; or

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

145 (c) Instruction taken by a student under Subsection (8) shall be in person and not
146 through electronic means.

147 (9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

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

149 (ii) be currently eligible to possess a firearm under Section 76-10-503;

150 (iii) have:

151 (A) completed a firearm instruction training course from the National Rifle Association
152 or the Department of Public Safety, Division of Peace Officer Safety Standards and Training;
153 or

154 (B) received training equivalent to one of the courses referred to in Subsection [~~(8)~~]
155 (9)(a)(iii)(A) as determined by the bureau;

156 (iv) have taken a course of instruction and passed a certification test as described in
157 Subsection (9)(c); and

158 (v) possess a Utah concealed firearm permit.

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

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

163 (ii) (A) The bureau shall provide or contract to provide the course referred to in
164 Subsection (9)(c)(i) twice every year.

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

167 (d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of
168 \$50.00 at the time of application for initial certification.

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

170 (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated
171 credit to cover the cost incurred in maintaining and improving the instruction program required
172 for concealed firearm instructors under this Subsection (9).

173 (10) A certified concealed firearms instructor shall provide each of the instructor's
174 students with the required course of instruction outline approved by the bureau.

175 (11) (a) (i) A concealed firearms instructor shall provide a signed certificate to a person
176 successfully completing the offered course of instruction.

177 (ii) The instructor shall sign the certificate with the exact name indicated on the
178 instructor's certification issued by the bureau under Subsection (9).

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

181 (B) The instructor shall destroy the seal upon revocation or expiration of the
182 instructor's certification under Subsection (9).

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

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

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

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

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

192 (b) The applicant shall provide the certificate to the bureau in compliance with
193 Subsection (6)(d).

194 (12) The bureau may deny, suspend, or revoke the certification of an applicant or a
195 concealed firearms instructor if it has reason to believe the applicant or the instructor has:

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

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

198 (13) An applicant for certification or a concealed firearms instructor has the same
199 appeal rights as set forth in Subsection (16).

200 (14) In providing instruction and issuing a permit under this part, the concealed
201 firearms instructor and the bureau are not vicariously liable for damages caused by the permit
202 holder.

203 (15) An individual who knowingly and willfully provides false information on an
204 application filed under this part is guilty of a class B misdemeanor, and the application may be
205 denied, or the permit may be suspended or revoked.

206 (16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or
207 permit holder may file a petition for review with the board within 60 days from the date the
208 denial, suspension, or revocation is received by the applicant or permit holder by certified mail,
209 return receipt requested.

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

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

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

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

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

220 (iii) The final order is final bureau action for purposes of judicial review under Section
221 63G-4-402.

222 (17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah
223 Administrative Rulemaking Act, necessary to administer this chapter.

224 Section 3. Section **53-5-707** is amended to read:

225 **53-5-707. Concealed firearm permit -- Fees -- Disposition.**

226 (1) (a) Each applicant for a concealed firearm permit shall pay a fee of \$29.75 at the
227 time of filing an application, except that a nonresident applicant shall pay an additional \$5 for
228 the additional cost of processing a nonresident application.

229 (b) The bureau shall waive the initial fee for an applicant who is a law enforcement
230 officer under Section 53-13-103.

231 (c) Concealed firearm permit renewal fees for active duty service members and spouses
232 of an active duty service member shall be waived.

233 (2) The renewal fee for the permit is \$15.

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

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

236 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal
237 submitted on a permit that has been expired for more than 30 days but less than one year.

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

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

242 (b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that
243 the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest
244 even dollar amount to that total.

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

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