

Representative Brian M. Greene proposes the following substitute bill:

DANGEROUS WEAPONS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill redefines dangerous weapon ~~H→~~ [~~and exempts~~] , clarifies restrictions relating to dangerous weapons, and establishes exemptions for the use of ~~←H~~ archery equipment ~~H→~~ [~~from the definition~~] for hunting and target shooting ~~←H~~ .

Highlighted Provisions:

This bill:

▸ defines dangerous weapon as a firearm or an object which is used unlawfully to inflict serious bodily injury;

▸ ~~H→~~ [~~exempts archery equipment, including crossbows, from the definition of dangerous weapon~~] clarifies the criminal culpability of transferring a dangerous weapon to a restricted person ~~←H~~ ;

~~H→~~ ▸ provides that a restricted person may own, possess, or have under the person's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and target shooting; ~~←H~~ and

▸ makes technical corrections.

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 2013, Chapters 278 and 301

76-10-503, as last amended by Laws of Utah 2012, Chapter 317



88 (6) (a) "Dangerous weapon" means:

89 (i) a firearm; or

90 (ii) an ~~item~~ **object** that in the manner of its ~~unlawful~~ use or intended
90a ~~unlawful~~ use is capable
91 of causing death or serious bodily injury.

92 (b) The following factors ~~shall be~~ are used in determining whether ~~a knife, or~~
93 ~~another item~~ any instrument, ~~object~~ ; ~~or thing~~ ; ~~not commonly known as a~~
93a ~~dangerous weapon~~

94 other than a firearm is a dangerous weapon:

95 (i) the ~~character of the instrument,~~ location and circumstances in which the
95a ~~object~~ ; ~~or thing~~ was used or possessed;

95b (ii) the primary purpose for which the object was made ;

96 ~~the~~ (iii) ~~the~~ character of the wound, if any, produced, ~~if any~~ by ~~its~~ the
96a object's ~~unlawful use;~~

97 ~~the~~ (iv) ~~the~~ manner in which the ~~instrument,~~
97a ~~object~~ ; ~~or thing~~ was unlawfully used; and

98 ~~the~~ (v) ~~the~~ other ~~lawful purposes for which the~~ object
98a ; ~~or thing~~ may be used.

99 ~~Unless specifically identified elsewhere in this code, nothing other than a firearm is~~
100 ~~considered a de facto dangerous weapon, and a determination made pursuant to Subsection~~
101 ~~(6)(b) may be made only after an instrument, object or thing is used in an unlawful manner.~~ ;

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

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

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

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

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

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

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

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

112 (10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or
113 short barreled rifle, or a device that could be used as a dangerous weapon from which is
114 expelled a projectile by action of an explosive.

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

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

150 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
 151 **dangerous weapons by certain persons.**

152 (1) For purposes of this section:

153 (a) A Category I restricted person is a person who:

154 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

155 (ii) is on probation or parole for any felony;

156 (iii) is on parole from a secure facility as defined in Section 62A-7-101;

157 (iv) within the last 10 years has been adjudicated delinquent for an offense which if

158 committed by an adult would have been a violent felony as defined in Section 76-3-203.5; or

159 (v) is an alien who is illegally or unlawfully in the United States.

160 (b) A Category II restricted person is a person who:

161 (i) has been convicted of any felony;

162 (ii) within the last seven years has been adjudicated delinquent for an offense which if

163 committed by an adult would have been a felony;

164 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

165 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in

166 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

167 (v) has been found not guilty by reason of insanity for a felony offense;

168 (vi) has been found mentally incompetent to stand trial for a felony offense;

169 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun

170 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed

171 to a mental institution;

172 (viii) has been dishonorably discharged from the armed forces; or

173 (ix) has renounced his citizenship after having been a citizen of the United States.

174 (2) A Category I restricted person who intentionally or knowingly:

175 (a) agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have

176 under the person's custody or control, or who intentionally or knowingly purchases, transfers,

177 possesses, uses, or has under the person's custody or control~~[-(a)]~~ any firearm is guilty of a

178 second degree felony; or

179 (b) physically possesses, uses, or has under the person's immediate custody or control

180 any dangerous weapon other than a firearm ~~H→~~ [while committing any felony or other violent

181 ~~criminal offense~~ in a manner that constitutes a potential imminent threat to public safety ←H is

181a guilty of a third degree felony.

182 (3) A Category II restricted person who intentionally or knowingly:

183 (a) purchases, transfers, possesses, uses, or has under the person's custody or control[:
184 (a)] any firearm is guilty of a third degree felony; or

185 (b) physically possesses, uses, or has under the person's immediate custody or control
186 any dangerous weapon other than a firearm H→ [while committing any felony or other violent

187 ~~criminal offense~~ in a manner that constitutes a potential imminent threat to public safety ←H is
187a guilty of a class A misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

210 (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or
211 dangerous weapon to any person, knowing that the recipient is a person described in



243 from the minor's possession is guilty of a class B misdemeanor.

244 Section 4. Section 76-10-512 is amended to read:

245 **76-10-512. Target concessions, shooting ranges, competitions, and hunting**
246 **excepted from prohibitions.**

247 (1) The provisions of Section 76-10-509 and Subsection 76-10-509.4(1) regarding
248 possession of handguns by minors ~~shall~~ do not apply to any of the following:

249 ~~(1)~~ (a) Patrons firing at lawfully operated target concessions at amusement parks,
250 piers, and similar locations provided that the firearms to be used are firmly chained or affixed
251 to the counters.

252 ~~(2)~~ (b) Any person in attendance at a hunter's safety course or a firearms safety
253 course.

254 ~~(3)~~ (c) Any person engaging in practice or any other lawful use of a firearm at an
255 established range or any other area where the discharge of a firearm is not prohibited by state or
256 local law.

257 ~~(4)~~ (d) Any person engaging in an organized competition involving the use of a
258 firearm, or participating in or practicing for such competition.

259 ~~(5)~~ (e) Any minor under 18 years of age who is on real property with the permission
260 of the owner, licensee, or lessee of the property and who has the permission of a parent or legal
261 guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law.

262 ~~(6)~~ (f) Any resident or nonresident hunters with a valid hunting license or other
263 persons who are lawfully engaged in hunting.

264 ~~(7)~~ (g) Any person traveling to or from any activity described in Subsection ~~(2), (3),~~
265 ~~(4), (5), or (6)~~ (1)(b), (c), (d), (e), or (f) with an unloaded firearm in his possession.

266 (2) It is not a violation of ~~H~~ **→ [this chapter] Subsection 76-10-503(2) or (3) ← H** for a
266a person ~~H~~ → defined in Section 76-10-503(1) ← H to own, possess, or have under the
267 person's custody or control, archery equipment, including crossbows, for the purpose of lawful
268 hunting ~~H~~ → [or] and lawful ← H target shooting.

1st Sub. H.B. 268

