

WEAPONS LAW EXEMPTIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill makes exemptions to provisions related to the use, carry, and transportation of a weapon.

Highlighted Provisions:

This bill:

- ▶ excludes certain weapon-related requirements for a person performing an official duty; and
- ▶ exempts a nonresident traveling in or through the state from weapon provisions under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-506, as last amended by Laws of Utah 2010, Chapter 361

76-10-508, as last amended by Laws of Utah 2008, Chapter 296

76-10-508.1, as last amended by Laws of Utah 2009, Chapter 157

76-10-523, as last amended by Laws of Utah 2009, Chapter 362



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28 *Be it enacted by the Legislature of the state of Utah:*29 Section 1. Section **76-10-506** is amended to read:30 **76-10-506. Threatening with or using dangerous weapon in fight or quarrel.**31 (1) As used in this section ~~it~~ [;] :

31a **(a) "Dangerous weapon" means an item that in the manner of its use or intended use is**
 31b **capable of causing death or serious bodily injury. The following factors shall be used in**
 31c **determining whether an item, object, or thing is a dangerous weapon:**

31d **(i) the character of the instrument, object, or thing;**31e **(ii) the character of the wound produced, if any; and**31f **(iii) the manner in which the instrument, object, or thing was exhibited or used.**31g **(b) "Threatening manner" ["threatening manner"]** ~~it~~ does not include:

32 ~~it~~ [(a)] (i) ~~it~~ the possession of a dangerous weapon, whether visible or concealed,
 32a without

33 additional behavior which is threatening; or

34 ~~it~~ [(b)] (ii) ~~it~~ informing another of the actor's possession of a deadly weapon in
 34a order to prevent

35 what the actor reasonably perceives as a possible use of unlawful force by the other and the
 36 actor is not engaged in any activity described in Subsection [76-2-402\(2\)\(a\)](#).

37 (2) Except as otherwise provided in Section [76-2-402](#) and for those persons
 38 described in Section [76-10-503](#), a person who ~~it~~ [H] , **in the presence of two or more**
 38a **persons, [H] and not amounting to a violation of Section 76-5-103, ~~it~~**
 39 **draws or exhibits a dangerous weapon ~~it~~ [as defined in Section [76-1-601](#)] ~~it~~** in an angry and
 40 threatening manner or unlawfully uses a dangerous weapon in a fight or quarrel is guilty of a
 41 class A misdemeanor.

42 (3) This section does not apply to a person who, reasonably believing the action to be
 43 necessary in compliance with Section [76-2-402](#), with purpose to prevent another's use of
 44 unlawful force:

45 (a) threatens the use of a dangerous weapon; or

46 (b) draws or exhibits a dangerous weapon.

47 (4) This section does not apply to a person listed in Subsections [76-10-523\(1\)\(a\)](#)
 48 through (e) in performance of the person's duties.

49 Section 2. Section **76-10-508** is amended to read:50 **76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction**

51 **of any person, building, or vehicle -- Penalties.**

52 (1) (a) A person may not discharge any kind of dangerous weapon or firearm:

53 (i) from an automobile or other vehicle;

54 (ii) from, upon, or across any highway;

55 (iii) at any road signs placed upon any highways of the state;

56 (iv) at any communications equipment or property of public utilities including

57 facilities, lines, poles, or devices of transmission or distribution;

58 (v) at railroad equipment or facilities including any sign or signal;

59 (vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf

60 courses, boat ramps, and developed beaches; or

61 (vii) without written permission to discharge the dangerous weapon from the owner or

62 person in charge of the property within 600 feet of:

63 (A) a house, dwelling, or any other building; or

64 (B) any structure in which a domestic animal is kept or fed, including a barn, poultry

65 yard, corral, feeding pen, or stockyard.

66 (b) It is a defense to any charge for violating this section that the person being

67 accused had actual permission of the owner or person in charge of the property at the time in

68 question.

69 (2) A violation of any provision of Subsection (1) is a class B misdemeanor.

70 (3) In addition to any other penalties, the court shall:

71 (a) notify the Driver License Division of the conviction for purposes of any

72 revocation, denial, suspension, or disqualification of a driver license under Subsection

73 [53-3-220\(1\)\(a\)\(xi\)](#); and

74 (b) specify in court at the time of sentencing the length of the revocation under

75 Subsection [53-3-225\(1\)\(c\)](#).

76 (4) This section does not apply to a person who:

77 (a) discharges any kind of firearm when that person is in lawful defense of self or

78 others;

79 (b) is performing official duties as provided in [~~Sections~~] Section [23-20-1.5](#) and

80 Subsections [76-10-523\(1\)\(a\) through \(e\)](#) and as otherwise provided by law; or

81 (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

82 (i) the discharge occurs at a firing range or training ground;

83 (ii) at no time after the discharge does the projectile that is discharged cross over or

84 stop at a location other than within the boundaries of the firing range or training ground

85 described in Subsection (4)(c)(i);

86 (iii) the discharge is made as practice or training for a lawful purpose;

87 (iv) the discharge and the location, time, and manner of the discharge are approved by
88 the owner or operator of the firing range or training ground prior to the discharge; and

89 (v) the discharge is not made in violation of Subsection (1).

90 Section 3. Section **76-10-508.1** is amended to read:

91 **76-10-508.1. Felony discharge of a firearm -- Penalties.**

92 (1) Except as provided under Subsection (2) or (3), a person who discharges a
93 firearm is guilty of a third degree felony punishable by imprisonment for a term of not less
94 than three years nor more than five years if:

95 (a) the actor discharges a firearm in the direction of any person or persons, knowing
96 or having reason to believe that any person may be endangered by the discharge of the
97 firearm;

98 (b) the actor, with intent to intimidate or harass another or with intent to damage a
99 habitable structure as defined in Section [76-6-101](#), discharges a firearm in the direction of
100 any person or habitable structure; or

101 (c) the actor, with intent to intimidate or harass another, discharges a firearm in the
102 direction of any vehicle.

103 (2) A violation of Subsection (1) which causes bodily injury to any person is a
104 second degree felony punishable by imprisonment for a term of not less than three years nor
105 more than 15 years.

106 (3) A violation of Subsection (1) which causes serious bodily injury to any person is
107 a first degree felony.

108 (4) In addition to any other penalties for a violation of this section, the court shall:

109 (a) notify the Driver License Division of the conviction for purposes of any
110 revocation, denial, suspension, or disqualification of a driver license under Subsection
111 [53-3-220\(1\)\(a\)\(xi\)](#); and

112 (b) specify in court at the time of sentencing the length of the revocation under
113 Subsection [53-3-225\(1\)\(c\)](#).

114 (5) This section does not apply to a person:

115 (a) who discharges any kind of firearm when that person is in lawful defense of self
116 or others;

117 (b) who is performing official duties as provided in Section 23-20-1.5 or Subsections
118 76-10-523(1)(a) through (e) or as otherwise authorized by law; or

119 (c) who discharges a dangerous weapon or firearm from an automobile or other
120 vehicle, if:

121 (i) the discharge occurs at a firing range or training ground;

122 (ii) at no time after the discharge does the projectile that is discharged cross over or
123 stop at a location other than within the boundaries of the firing range or training ground
124 described in Subsection (5)(c)(i);

125 (iii) the discharge is made as practice or training for a lawful purpose;

126 (iv) the discharge and the location, time, and manner of the discharge are approved by
127 the owner or operator of the firing range or training ground prior to the discharge; and

128 (v) the discharge is not made in violation of Subsection (1).

129 Section 4. Section **76-10-523** is amended to read:

130 **76-10-523. Persons exempt from weapons laws.**

131 (1) [~~This~~] Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and
132 Title 53, Chapter 5, Part 7, Concealed [~~Weapon~~] Firearm Act, do not apply to any of the
133 following:

134 (a) a United States marshal;

135 (b) a federal official required to carry a firearm;

136 (c) a peace officer of this or any other jurisdiction;

137 (d) a law enforcement official as defined and qualified under Section 53-5-711;

138 (e) a judge as defined and qualified under Section 53-5-711; or

139 (f) a common carrier while engaged in the regular and ordinary transport of firearms
140 as merchandise[~~; or~~].

141 [~~(g) a nonresident traveling in or through the state, provided that any firearm is:~~]

142 [~~(i) unloaded; and~~]

143 [~~(ii) securely encased as defined in Section 76-10-501.]~~]

144 (2) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do
145 not apply to any person to whom a permit to carry a concealed firearm has been issued:

146 (a) pursuant to Section 53-5-704; or

- 147 (b) by another state or county.
- 148 (3) Except for Sections [76-10-503](#), [76-10-506](#), [76-10-508](#), and [76-10-508.1](#), this part
- 149 and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident
- 150 traveling in or through the state, provided that any firearm is:
- 151 (a) unloaded; and
- 152 (b) securely encased as defined in Section [76-10-501](#).

Legislative Review Note
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Office of Legislative Research and General Counsel