

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 and exempts archery equipment from the definition.

Highlighted Provisions:

This bill:

- ▶ defines dangerous weapon as a firearm or an object which is used unlawfully to inflict serious bodily injury;
- ▶ exempts archery equipment, including crossbows, from the definition of dangerous weapon; 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



26 [76-10-509.7](#), as enacted by Laws of Utah 1993, Second Special Session, Chapter 10
27 [76-10-512](#), as last amended by Laws of Utah 2000, Chapter 303



28
29 *Be it enacted by the Legislature of the state of Utah:*

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

31 **76-10-501. Definitions.**

32 As used in this part:

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

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

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

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

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

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

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

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

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

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

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

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

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

51 (A) barrel;

52 (B) bolt;

53 (C) breechblock; or

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

55 (2) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
56 within the Department of Public Safety.

- 57 (3) (a) "Concealed dangerous weapon" means a dangerous weapon that is:
58 (i) covered, hidden, or secreted in a manner that the public would not be aware of its
59 presence; and
60 (ii) readily accessible for immediate use.
61 (b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is
62 unloaded and is securely encased.
63 (4) "Criminal history background check" means a criminal background check
64 conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal
65 Firearms Licensee, through the bureau or the local law enforcement agency where the firearms
66 dealer conducts business.
67 (5) "Curio or relic firearm" means a firearm that:
68 (a) is of special interest to a collector because of a quality that is not associated with
69 firearms intended for:
70 (i) sporting use;
71 (ii) use as an offensive weapon; or
72 (iii) use as a defensive weapon;
73 (b) (i) was manufactured at least 50 years before the current date; and
74 (ii) is not a replica of a firearm described in Subsection (5)(b)(i);
75 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
76 firearms to be a curio or relic of museum interest;
77 (d) derives a substantial part of its monetary value:
78 (i) from the fact that the firearm is:
79 (A) novel;
80 (B) rare; or
81 (C) bizarre; or
82 (ii) because of the firearm's association with an historical:
83 (A) figure;
84 (B) period; or
85 (C) event; and
86 (e) has been designated as a curio or relic firearm by the director of the United States
87 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

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

89 (i) a firearm; or

90 (ii) an item that in the manner of its unlawful use or intended 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 dangerous weapon~~]
94 other than a firearm is a dangerous weapon:

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

96 (ii) the character of the wound, if any, produced [~~if any~~] by its unlawful use;

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

98 (iv) the [~~other~~] lawful purposes for which the instrument, object, or thing may be used.

99 (c) 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 [~~(c)~~] (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.

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

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

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

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

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

132 (16) "Readily accessible for immediate use" means that a firearm or other dangerous
133 weapon is carried on the person or within such close proximity and in such a manner that it can
134 be retrieved and used as readily as if carried on the person.

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

137 (18) "Securely encased" means not readily accessible for immediate use, such as held
138 in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
139 storage area of a motor vehicle, not including a glove box or console box.

140 (19) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel
141 or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels
142 of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by
143 alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer
144 than 26 inches.

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

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

149 Section 2. Section 76-10-503 is amended to read:

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 while committing any felony or other violent

181 criminal offense is 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 while committing any felony or other violent
187 criminal offense is 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

212 Subsection (1)(a) or (b).

213 (b) A person who violates Subsection (8)(a) when the recipient is:

214 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
215 guilty of a second degree felony;

216 (ii) a person described in Subsection (1)(a) and the transaction involves any dangerous
217 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
218 the weapon for any unlawful purpose, is guilty of a third degree felony;

219 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
220 guilty of a third degree felony; or

221 (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous
222 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
223 the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

224 (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
225 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under
226 circumstances which the person knows would be a violation of the law.

227 (b) A person may not provide to a dealer or other person [~~what~~] any information that
228 the person knows to be materially false information with intent to deceive the dealer or other
229 person about the legality of a sale, transfer or other disposition of a firearm or dangerous
230 weapon.

231 (c) "Materially false information" means information that portrays an illegal transaction
232 as legal or a legal transaction as illegal.

233 (d) A person who violates this Subsection (9) is guilty of:

234 (i) a third degree felony if the transaction involved a firearm; or

235 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a
236 firearm.

237 Section 3. Section **76-10-509.7** is amended to read:

238 **76-10-509.7. Parent or guardian knowing of minor's possession of dangerous**
239 **weapon.**

240 Any parent or guardian of a minor who knows that the minor is in possession of a
241 dangerous weapon in violation of Section **76-10-509** or a firearm in violation of Section
242 **76-10-509.4** and fails to make reasonable efforts to remove the dangerous weapon or firearm

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 this chapter for a person to own, possess, or have under the
267 person's custody or control, archery equipment, including crossbows, for the purpose of lawful
268 hunting or target shooting.