

## HB0329S01 compared with HB0329

~~{deleted text}~~ shows text that was in HB0329 but was deleted in HB0329S01.

Inserted text shows text that was not in HB0329 but was inserted into HB0329S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Justin L. Fawson proposes the following substitute bill:

### CONCEAL CARRY RECIPROCITY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Justin L. Fawson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill ~~{creates the Utah Concealed Weapon Reciprocity Policy Council and amends}~~ modifies the duties of ~~{the attorney general}~~ certain state agencies relating to concealed carry reciprocity agreements.

##### Highlighted Provisions:

This bill:

- ▶ ~~{creates the Utah Concealed Weapon Reciprocity Policy Council; and~~
- ▶ ~~requires the attorney general to provide legal representation and advocacy on behalf of the council}~~ modifies the makeup and duties of the Concealed Firearm Review Board;
- ▶ directs the Bureau of Criminal Identification to actively pursue conceal carry reciprocity agreements with other states; and

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▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{67-5-1}~~ 53-5-703, as last amended by Laws of Utah ~~{2016}~~ 2010, ~~{Chapter 120}~~

ENACTS:

~~———— 63C-2-101, Utah Code Annotated 1953~~

~~———— 63C-2-102, Utah Code Annotated 1953}~~ Chapters 62, 286, and 324

53-5-704, as last amended by Laws of Utah 2013, Chapter 280

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

Section 1. Section 53-5-703 is amended to read:

**53-5-703. Board -- Membership -- Compensation -- Terms -- Duties.**

(1) There is created within the bureau the Concealed Firearm Review Board.

(2) (a) The board is comprised of not more than ~~{five}~~ eight members.

(b) five of the members shall be appointed by the commissioner on a bipartisan basis ~~[-{~~

~~———— } (b) { }~~ The board and shall include a member representing law enforcement and at least two citizens, one of whom represents sporting interests.

(c) Three members of the board shall include:

(i) the attorney general, or the attorney general's designee;

(ii) a member of the Senate, appointed by the president of the Senate; and

(iii) a member of the House of Representatives, appointed by the speaker of the House of Representatives.

(d) Members of the board appointed in accordance with Subsections (2)(c)(ii) and (iii) shall serve two year terms.

(e) When a vacancy occurs in the membership as prescribed in Subsections (2)(c)(ii) and (iii) for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

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(3) (a) Except as required by ~~Subsection~~ Subsections (2)(e) and (3)(b), as terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly, unless the board has no business to conduct during that quarter.

(7) The board, upon receiving a timely filed petition for review, shall review within a reasonable time the denial, suspension, or revocation of a permit or a temporary permit to carry a concealed firearm.

(8) The board shall direct the bureau on the goals and objectives of negotiations with other states to establish reciprocity agreements of the Utah concealed firearm permit by those states.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) In determining whether an applicant or permit holder meets the qualifications set forth in Subsection (2)(a), the bureau shall consider mitigating circumstances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) one recent dated photograph;

(c) one set of fingerprints; and

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

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

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

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

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

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

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

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

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

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

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

(i) be at least 21 years of age;

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

(iii) have:

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

or

(B) received training equivalent to one of the courses referred to in Subsection

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(9)(a)(iii)(A) as determined by the bureau;

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

(v) possess a Utah concealed firearm permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or
- (b) knowingly and willfully provided false information to the bureau.

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

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

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

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

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

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

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



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

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

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

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

~~Section 1. Section **63C-2-101** is enacted to read:~~

### ~~CHAPTER 2. UTAH CONCEALED WEAPON RECIPROCITY POLICY COUNCIL~~

~~**63C-2-101. Title:**~~

~~This chapter is known as the "Utah Concealed Weapon Reciprocity Policy Council."~~

~~Section 2. Section **63C-2-102** is enacted to read:~~

~~**63C-2-102. Creation -- Members -- Duties:**~~

~~(1) There is created the Utah Concealed Weapon Reciprocity Policy Council.~~

~~(2) The members of the council are:~~

~~(a) the governor, or the governor's designee;~~

~~(b) a member of the Senate, appointed by the president of the Senate; and~~

~~(c) a member of the House of Representatives, appointed by the speaker of the House of Representatives.~~

~~(3) Members of the council appointed in accordance with Subsections (2)(b) and (c) shall serve two-year terms.~~

~~(4) When a vacancy occurs in the membership as prescribed in Subsections (2)(b) and (c) for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.~~

~~(5) The council shall direct the goals and objectives of negotiations with other states to establish reciprocity agreements or recognition agreements of the Utah concealed firearm permit by those states, and shall promptly act on any agreement presented to the council by the attorney general.~~

~~Section 3. Section **67-5-1** is amended to read:~~

~~**67-5-1. General duties:**~~

~~The attorney general shall:~~

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- ~~—— (1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;~~
- ~~—— (2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;~~
- ~~—— (3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;~~
- ~~—— (4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;~~
- ~~—— (5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:~~
  - ~~—— (a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;~~
  - ~~—— (b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and~~
  - ~~—— (c) deliver this information to the attorney general's successor in office;~~
- ~~—— (6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;~~
- ~~—— (7) give the attorney general's opinion in writing and without fee to the Legislature or either house and to any state officer, board, or commission, and to any county attorney or district attorney, when required, upon any question of law relating to their respective offices;~~
- ~~—— (8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;~~
- ~~—— (9) purchase in the name of the state, under the direction of the state Board of~~

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~~Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;~~

~~—— (10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;~~

~~—— (11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;~~

~~—— (12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;~~

~~—— (13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;~~

~~—— (14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;~~

~~—— (15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;~~

~~—— (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a;~~

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~~Constitutional and Federalism Defense Act;~~

~~—— (17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;~~

~~—— (18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;~~

~~—— (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:~~

~~—— (a) health care facilities that receive payments under the state Medicaid program; and~~

~~—— (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;~~

~~—— (20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:~~

~~—— (i) cost the state more than \$500,000; or~~

~~—— (ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and~~

~~—— (b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report; [and]~~

~~—— (21) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:~~

~~—— (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and~~

~~—— (b) any other information or analysis requested by the rate committee[.]; and~~

~~—— (22) (17) The bureau shall:~~

~~(a) act as the designated official in the state for matters relating to reciprocity of concealed weapons permits with other states;~~

~~(b) seek out responsible officials in all states that recognize the Utah concealed firearm permit, but do not have formal reciprocity agreements with Utah, and negotiate the establishment of formal reciprocity agreements;~~

~~(c) open and conduct negotiations with other states that do not recognize the Utah concealed firearm permit, on behalf of the ~~board~~ board established in Section~~

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~~{63C-2-102}~~53-5-703, to:

- (i) establish formal reciprocity agreements; or
- (ii) enter into concealed weapons permit recognition agreements;
- (d) present to the ~~{council}~~board the terms of any ~~{such}~~ agreements; ~~{and}~~
- (e) serve as the custodian of official records and documents of all concealed weapon reciprocity agreements or recognition agreements with other states ~~{,}~~; and
- (f) maintain a list of states with ~~{such}~~ reciprocity or recognition agreements ~~{ publicly}~~  
on its website.

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### **Legislative Review Note**

~~Office of Legislative Research and General Counsel~~ ~~[(17)] (18) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.~~