

HB0329S02 compared with HB0329S01

~~{deleted text}~~ shows text that was in HB0329S01 but was deleted in HB0329S02.

Inserted text shows text that was not in HB0329S01 but was inserted into HB0329S02.

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~~{Representative Justin L. Fawson}~~Senator Curtis S. Bramble proposes the following substitute bill:

CONCEAL CARRY RECIPROCITY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: ~~{ }~~Curtis S. Bramble

LONG TITLE

General Description:

This bill ~~{modifies the duties of certain state agencies relating to}~~creates a board for concealed carry reciprocity agreements.

Highlighted Provisions:

This bill:

- ▶ ~~{modifies the makeup and duties of}~~creates the Concealed Firearm ~~{Review}~~Permit Reciprocity Board;
- ▶ directs the Bureau of Criminal Identification to actively pursue conceal carry reciprocity agreements with other states; and
- ▶ ~~{makes technical changes}~~provides a sunset date for the board.

Money Appropriated in this Bill:

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None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{53-5-703, as last amended by Laws of Utah 2010, Chapters 62, 286, and 324~~

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

~~63I-1-253, as last amended by Laws of Utah 2016, Chapters 41, 63, and 169~~

ENACTS:

~~53-5-713, Utah Code Annotated 1953~~

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

Section 1. Section ~~{53-5-703}~~53-5-704 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 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.~~

~~(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~~

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~~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).

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

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(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

(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

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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

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

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

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

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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;

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

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(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.

(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.

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(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 bureau shall:

(a) act as the designated official in the state for matters relating to reciprocity of concealed ~~weapons~~firearm 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 established in Section ~~53-5-703~~53-5-713, to:

(i) establish formal reciprocity agreements; or

(ii) enter into concealed ~~weapons~~firearm permit recognition agreements;

(d) present to the board the terms of any agreements;

(e) serve as the custodian of official records and documents of all concealed ~~weapon~~firearm reciprocity agreements or recognition agreements with other states; and

(f) maintain a list of states with reciprocity or recognition agreements on its website.

~~(17)~~ (18) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 2. Section 53-5-713 is enacted to read:

53-5-713. Concealed Firearm Permit Reciprocity Board.

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

(2) The board is comprised of the following five members:

(a) one member appointed by the governor;

(b) the commissioner of the Department of Public Safety or the commissioner's designee;

(c) the attorney general or the attorney general's designee;

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

(e) a member of the House of Representatives, appointed by the Speaker of the House

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of Representatives.

(3) The board shall annually select a chair and vice-chair from its membership.

(4) The board shall direct the bureau on the goals and objectives of negotiations with other states to establish reciprocity agreements for the Utah concealed firearm permit by those states as outlined in Subsection 53-5-703(17).

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(6) 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.

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

(8) This board is repealed in accordance with Section 63I-1-253.

Section 3. Section **63I-1-253** is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-5-713, Concealed Firearm Permit Reciprocity Board, is repealed July 1, 2020.

~~(1)~~ (2) Subsection 53-10-202(18) is repealed July 1, 2018.

~~(2)~~ (3) Section 53-10-202.1 is repealed July 1, 2018.

~~(3)~~ (4) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.

~~(4)~~ (5) Section 53A-13-106.5 is repealed July 1, 2019.

~~(5)~~ (6) Section 53A-15-106 is repealed July 1, 2019.

~~(6)~~ (7) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

~~(7)~~ (8) Section 53A-16-114 is repealed December 31, 2016.

~~(8)~~ (9) Section 53A-17a-163, Performance-based Compensation Pilot Program, is repealed July 1, 2016.

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~~[(9)]~~ (10) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(10)]~~ (11) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

~~[(11)]~~ (12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.