

1 **WEAPON POSSESSION WHILE UNDER THE INFLUENCE**

2 **AMENDMENTS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jason B. Kyle**

6 Senate Sponsor: Chris H. Wilson

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to who can carry a dangerous weapon.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends provisions related to who can carry a dangerous weapon.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **76-10-528**, as last amended by Laws of Utah 2022, Chapter 159

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

23 Section 1. Section **76-10-528** is amended to read:

24 **76-10-528. Carrying a dangerous weapon while under influence of alcohol or**
25 **drugs unlawful.**

26 (1) It is a class B misdemeanor for an actor to carry a dangerous weapon while under
27 the influence of:

28 (a) alcohol as determined by the actor's blood or breath alcohol concentration in

- 29 accordance with Subsections 41-6a-502(1)(a) through (c); or
- 30 (b) a controlled substance as defined in Section 58-37-2.
- 31 (2) This section does not apply to:
- 32 (a) an actor carrying a dangerous weapon that is either securely encased, as defined in
- 33 this part, or not within such close proximity and in such a manner that it can be retrieved and
- 34 used as readily as if carried on the person;
- 35 (b) an actor who uses or threatens to use force in compliance with Section 76-2-402;
- 36 (c) an actor carrying a dangerous weapon in the actor's residence or the residence of
- 37 another with the consent of the individual who is lawfully in possession;
- 38 (d) an actor under the influence of cannabis or a cannabis product, as those terms are
- 39 defined in Section 26-61a-102, if the actor's use of the cannabis or cannabis product complies
- 40 with Title 26, Chapter 61a, Utah Medical Cannabis Act; or
- 41 (e) an actor who:
- 42 (i) has a valid prescription for a controlled substance [~~for a medication approved by the~~
- 43 ~~federal Food and Drug Administration for the treatment of attention deficit disorder or~~
- 44 ~~attention deficit hyperactivity disorder;~~] [~~and~~];
- 45 (ii) takes the [~~medication~~] controlled substance described in Subsection (2)(e)(i) as
- 46 prescribed; and
- 47 (iii) after taking the controlled substance, the actor:
- 48 (A) is not a danger to the actor or another individual; or
- 49 (B) is capable of safely handling a dangerous weapon.
- 50 (3) It is not a defense to prosecution under this section that the actor:
- 51 (a) is licensed in the pursuit of wildlife of any kind; or
- 52 (b) has a valid permit to carry a concealed firearm.