

1 **WEAPON PURCHASE AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kathleen A. Riebe**

5 House Sponsor: _____

6 **LONG TITLE**7 **General Description:**

8 This bill creates a waiting period for the delivery of an assault weapon.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ defines terms;
- 12 ▶ creates a waiting period between the purchase of an assault weapon from a dealer
- 13 and the delivery of the assault weapon to the purchaser;
- 14 ▶ creates exceptions to the waiting period; and
- 15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**21 **AMENDS:**22 **76-10-526**, as last amended by Laws of Utah 2021, Chapters 166, 27723 **76-10-527**, as last amended by Laws of Utah 2009, Chapter 2024 **ENACTS:**25 **76-10-526.1**, Utah Code Annotated 1953

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

29 Section 1. Section **76-10-526** is amended to read:

30 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
31 **Exemption for concealed firearm permit holders and law enforcement officers.**

32 (1) [For purposes of] As used in this section, "valid permit to carry a concealed
33 firearm" does not include a temporary permit issued under Section **53-5-705**.

34 (2) (a) To establish personal identification and residence in this state for purposes of
35 this part, a dealer shall require an individual receiving a firearm to present one photo
36 identification on a form issued by a governmental agency of the state.

37 (b) A dealer may not accept a driving privilege card issued under Section **53-3-207** as
38 proof of identification for the purpose of establishing personal identification and residence in
39 this state as required under this Subsection (2).

40 (3) (a) A criminal history background check is required for the sale of a firearm by a
41 licensed firearm dealer in the state.

42 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
43 Licensee.

44 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
45 criminal background check, on a form provided by the bureau.

46 (b) The form shall contain the following information:

47 (i) the dealer identification number;

48 (ii) the name and address of the individual receiving the firearm;

49 (iii) the date of birth, height, weight, eye color, and hair color of the individual
50 receiving the firearm; and

51 (iv) the social security number or any other identification number of the individual
52 receiving the firearm.

53 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
54 immediately upon its receipt by the dealer.

55 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
56 provided the bureau with the information in Subsection (4) and has received approval from the
57 bureau under Subsection (7).

58 (6) The dealer shall make a request for criminal history background information by

59 telephone or other electronic means to the bureau and shall receive approval or denial of the
60 inquiry by telephone or other electronic means.

61 (7) When the dealer calls for or requests a criminal history background check, the
62 bureau shall:

63 (a) review the criminal history files, including juvenile court records, and the
64 temporary restricted file created under Section 53-5c-301, to determine if the individual is
65 prohibited from purchasing, possessing, or transferring a firearm by state or federal law;
66 (b) inform the dealer that:
67 (i) the records indicate the individual is prohibited; or
68 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;
69 (c) provide the dealer with a unique transaction number for that inquiry; and
70 (d) provide a response to the requesting dealer during the call for a criminal
71 background check, or by return call, or other electronic means, without delay, except in case of
72 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
73 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
74 delay.

75 (8) (a) The bureau may not maintain any records of the criminal history background
76 check longer than 20 days from the date of the dealer's request, if the bureau determines that
77 the individual receiving the firearm is not prohibited from purchasing, possessing, or
78 transferring the firearm under state or federal law.

79 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
80 firearms number, the transaction number, and the transaction date for a period of 12 months.

81 (9) (a) If the criminal history background check discloses information indicating that
82 the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
83 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction
84 where the individual resides.

85 (b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a
86 firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

87 (c) A law enforcement agency that receives information from the bureau under
88 Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that
89 includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection (9)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection (9)(c)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(d) The bureau shall:

(i) compile the information from the reports described in Subsection (9)(c);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim

Committee before November 1 of each year.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection (12)(a) remains in effect until changed by the bureau through the process described in Section [63J-1-504](#).

(c) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

119 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
120 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee

121 required in this section for the purchase of a firearm if:

122 (a) the individual presents the individual's concealed firearm permit to the dealer prior
123 to purchase of the firearm; and

124 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
125 valid.

126 (14) (a) A law enforcement officer, as defined in Section [53-13-103](#), is exempt from
127 the background check fee required in this section for the purchase of a personal firearm to be
128 carried while off-duty if the law enforcement officer verifies current employment by providing
129 a letter of good standing from the officer's commanding officer and current law enforcement
130 photo identification.

131 (b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a
132 personal firearm once in a 24-month period.

133 (15) A dealer engaged in the business of selling, leasing, or otherwise transferring any
134 firearm shall:

135 (a) make the firearm safety brochure described in Subsection [62A-15-103\(3\)](#) available
136 to a customer free of charge; and

137 (b) at the time of purchase, or if the waiting period described in Section [76-10-526.1](#)
138 applies, at the time of delivering the firearm, distribute a cable-style gun lock provided to the
139 dealer under Subsection [62A-15-103\(3\)](#) to a customer purchasing a shotgun, short barreled
140 shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be
141 accompanied by a gun lock at the time of purchase.

142 Section 2. Section [76-10-526.1](#) is enacted to read:

143 **76-10-526.1. Waiting period for purchase of an assault weapon -- Exceptions --**

144 **Penalty.**

145 (1) As used in this section:

146 (a) "Assault weapon" means a semi-automatic firearm, with two or more firearm
147 accessories, that:

148 (i) is capable of accepting a detachable magazine with the capacity to accept ten or
149 more cartridges; or

150 (ii) has a fixed magazine with the capacity to accept ten or more cartridges.

151 (b) (i) "Barrel shroud" means a ventilated covering that partially or completely

152 encircles the barrel of a firearm to protect the user's non-trigger hand from being burned.

153 (ii) "Barrel shroud" does not include:

154 (A) a slide that partially or completely encircles the barrel; or

155 (B) an extension of the stock along the bottom of the barrel that does not substantially

156 encircle the barrel.

157 (c) "Detachable magazine" means a cartridge feeding device that can readily be

158 removed from a firearm without requiring the action of the firearm to be disassembled.

159 (d) "Firearm accessory" means:

160 (i) a folding or telescoping stock;

161 (ii) a pistol grip that protrudes conspicuously beneath the action of the firearm;

162 (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;

163 (iv) a thumbhole stock;

164 (v) a bayonet mount;

165 (vi) a flash suppressor, muzzle break, or muzzle compensator;

166 (vii) a threaded barrel designed to accommodate a flash suppressor, muzzle break, or

167 muzzle compensator;

168 (viii) a barrel shroud; or

169 (ix) a grenade launcher.

170 (e) "Flash suppressor" means a device that functions, or is intended to function, to

171 perceptibly reduce or redirect muzzle flash from a firearm user's field of vision.

172 (f) "Valid permit to carry a concealed firearm" does not include a temporary permit

173 issued under Section 53-5-705.

174 (2) Except as provided in Subsection (3), a dealer may not deliver an assault weapon to

175 a purchaser until:

176 (a) the requirements of Section 76-10-526 are met; and

177 (b) at least ten days, not including weekends and holidays, have passed after the day on

178 which the assault weapon was purchased.

179 (3) The waiting period described in Subsection (2) does not apply to:

180 (a) the trade of one assault weapon for another assault weapon; or

181 (b) the purchase of a firearm by:

182 (i) an individual with a valid permit to carry a concealed firearm who is exempt from

183 the criminal background check fee under Subsection 76-10-526(13);
184 (ii) a law enforcement officer who is exempt from the criminal background check fee
185 under Subsection 76-10-526(14); or
186 (iii) a Federal Firearms Licensee.
187 (4) An actor who violates Subsection (2) is subject to the penalties described in Section
188 76-10-527.

189 Section 3. Section **76-10-527** is amended to read:

190 **76-10-527. Penalties.**

191 (1) A dealer is guilty of a class A misdemeanor who willfully and intentionally:
192 (a) requests, obtains, or seeks to obtain criminal history background information under
193 false pretenses;

194 (b) disseminates criminal history background information; or
195 (c) violates Section 76-10-526 or 76-10-526.1.

196 (2) ~~[A person]~~ An actor who purchases or transfers a firearm is guilty of a third degree
197 felony ~~[of the third degree]~~ if the ~~[person]~~ actor willfully and intentionally makes a false
198 statement of the information required:

199 (a) for a criminal background check in Section 76-10-526; or
200 (b) for an exemption to the waiting period described in Section 76-10-526.1.

201 (3) Except as otherwise provided in Subsection (1), a dealer is guilty of a felony of the
202 third degree if the dealer willfully and intentionally sells or transfers a firearm in violation of
203 this part.

204 (4) ~~[A person]~~ An actor is guilty of a third degree felony ~~[of the third degree]~~ if the
205 ~~[person]~~ actor purchases a firearm with the intent to:

206 (a) resell or otherwise provide a firearm to a person who is ineligible to purchase or
207 receive a firearm from a dealer; or
208 (b) transport a firearm out of this state to be resold to an ineligible person.