

**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 modifies the duties of certain state agencies relating to concealed carry reciprocity agreements.

**Highlighted Provisions:**

This bill:

- ▶ 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
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

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

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

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

28 **53-5-703. Board -- Membership -- Compensation -- Terms -- Duties.**

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

30 (2) (a) The board is comprised of not more than eight members.

31 (b) five of the members shall be appointed by the commissioner on a bipartisan basis[:

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

34 (c) Three members of the board shall include:

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

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

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

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

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

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

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

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

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

55 (a) Section [63A-3-106](#);

56 (b) Section [63A-3-107](#); and

57 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
58 63A-3-107.

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

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

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

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

68 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**  
69 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**  
70 **suspension, or revocation -- Appeal procedure.**

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

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

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

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

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

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

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

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

- 88 (ii) has been or is convicted of a crime of violence;
- 89 (iii) has been or is convicted of an offense involving the use of alcohol;
- 90 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
- 91 other controlled substances;
- 92 (v) has been or is convicted of an offense involving moral turpitude;
- 93 (vi) has been or is convicted of an offense involving domestic violence;
- 94 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
- 95 unless the adjudication has been withdrawn or reversed; and
- 96 (viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503
- 97 and federal law.

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

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

- 103 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
- 104 (ii) past participation in incidents involving unlawful violence or threats of unlawful
- 105 violence; or
- 106 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

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

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

- 111 (i) expunged records of arrests and convictions of adults as provided in Section
- 112 77-40-109; and
- 113 (ii) juvenile court records as provided in Section 78A-6-209.

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

- 118 (i) hold a current concealed firearm or concealed weapon permit issued by the

119 appropriate permitting authority of the nonresident applicant's state of residency; and

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

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

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

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

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

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

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

135 (b) one recent dated photograph;

136 (c) one set of fingerprints; and

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

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

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

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

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

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

150 one of the following:

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

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

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

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

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

161 (i) be at least 21 years of age;

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

163 (iii) have:

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

166 or

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

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

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

171 (v) possess a Utah concealed firearm permit.

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

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

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

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

180 (d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of

181 \$50.00 at the time of application for initial certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

209 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

210 (b) knowingly and willfully provided false information to the bureau.

211 (13) An applicant for certification or a concealed firearms instructor has the same

212 appeal rights as set forth in Subsection (16).

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

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

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

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

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

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

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

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

233 (iii) The final order is final bureau action for purposes of judicial review under Section  
234 [63G-4-402](#).

235 (17) The bureau shall:

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

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

241 (c) open and conduct negotiations with other states that do not recognize the Utah  
242 concealed firearm permit, on behalf of the board established in Section [53-5-703](#), to:

- 243            (i) establish formal reciprocity agreements; or  
244            (ii) enter into concealed weapons permit recognition agreements;  
245            (d) present to the board the terms of any agreements;  
246            (e) serve as the custodian of official records and documents of all concealed weapon  
247 reciprocity agreements or recognition agreements with other states; and  
248            (f) maintain a list of states with reciprocity or recognition agreements on its website.  
249            [~~17~~] (18) The commissioner may make rules in accordance with Title 63G, Chapter  
250 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.