

1 WEAPONS RESTRICTIONS AMENDMENTS

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Norman K. Thurston**

5 Senate Sponsor: Jacob L. Anderegg

7 **LONG TITLE**

8 **General Description:**

9 This bill changes and clarifies the prohibitions for carrying a dangerous weapon by an
10 intoxicated individual.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ eliminates the current exemption that allows a peace officer to carry a dangerous
14 weapon while intoxicated;
- 15 ▶ clarifies that carrying a dangerous weapon that is securely encased or not readily
16 available is not prohibited;
- 17 ▶ modifies the law to respect an individual's constitutional right to self defense; and
- 18 ▶ provides an exception for an individual who carries a dangerous weapon in a private
19 residence with the consent of the owner.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **76-10-523**, as last amended by Laws of Utah 2014, Chapter 248

27 **76-10-528**, as last amended by Laws of Utah 2008, Chapter 226

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

30 Section 1. Section 76-10-523 is amended to read:

31 **76-10-523. Persons exempt from weapons laws.**

32 (1) Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53,
33 Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

- 34 (a) a United States marshal;
- 35 (b) a federal official required to carry a firearm;
- 36 (c) a peace officer of this or any other jurisdiction;
- 37 (d) a law enforcement official as defined and qualified under Section 53-5-711;
- 38 (e) a judge as defined and qualified under Section 53-5-711; or
- 39 (f) a common carrier while engaged in the regular and ordinary transport of firearms as
40 merchandise.

41 (2) Notwithstanding Subsection (1), the provisions of Section 76-10-528 apply to any
42 individual listed in Subsection (1) who is not employed by a state or federal agency or political
43 subdivision that has adopted a policy or rule regarding the use of dangerous weapons.

44 [~~2~~] (3) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505
45 do not apply to any person to whom a permit to carry a concealed firearm has been issued:

- 46 (a) pursuant to Section 53-5-704; or
- 47 (b) by another state or county.

48 [~~3~~] (4) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this
49 part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident
50 traveling in or though the state, provided that any firearm is:

- 51 (a) unloaded; and
- 52 (b) securely encased as defined in Section 76-10-501.

53 Section 2. Section 76-10-528 is amended to read:

54 **76-10-528. Carrying a dangerous weapon while under influence of alcohol or**
55 **drugs unlawful.**

56 (1) [~~Any person who carries~~] It is a class B misdemeanor for any person to carry a
57 dangerous weapon while under the influence of:

58 (a) alcohol as determined by the person's blood or breath alcohol concentration in
59 accordance with Subsections 41-6a-502(1)(a) through (c); or

60 (b) a controlled substance as defined in Section 58-37-2 [~~is guilty of a class B~~
61 ~~misdemeanor. Under the influence means the same level of influence or blood or breath~~
62 ~~alcohol concentration as provided in Subsections 41-6a-502(1)(a) through(c)].~~

63 (2) This section does not apply to:

64 (a) a person carrying a dangerous weapon that is either securely encased, as defined in
65 this part, or not within such close proximity and in such a manner that it can be retrieved and
66 used as readily as if carried on the person;

67 (b) any person who uses or threatens to use force in compliance with Section 76-2-402;

68 or

69 (c) any person carrying a dangerous weapon in the person's residence or the residence
70 of another with the consent of the individual who is lawfully in possession.

71 [~~(2)~~] (3) It is not a defense to prosecution under this section that the person:

72 (a) is licensed in the pursuit of wildlife of any kind; or

73 (b) has a valid permit to carry a concealed firearm.