

FIREARMS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill concerns applications for and the carrying of concealed weapons by provisional permit holders.

Highlighted Provisions:

This bill:

- ▶ provides that a provisional concealed carry permit holder may, before age 21, apply for a concealed carry permit that becomes valid at age 21;
- ▶ clarifies requirements for renewal permits;
- ▶ clarifies the law regarding the ability of provisional permit holders to carry concealed weapons on certain school premises; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

53-5-710, as last amended by Laws of Utah 2017, Chapter 286

76-10-505.5, as last amended by Laws of Utah 2013, Chapter 301

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

30 Section 1. Section **53-5-704** is amended to read:

31 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**
32 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
33 **suspension, or revocation -- Appeal procedure.**

34 (1) (a) ~~[The]~~ Except as provided in Subsection (1)(b), the bureau shall issue a permit to
35 carry a concealed firearm for lawful self defense to an applicant who is 21 years ~~[of age]~~ old or
36 older within 60 days after receiving an application, unless the bureau finds proof that the
37 applicant ~~[does not meet the qualifications set forth in]~~ is not qualified to hold a permit under
38 Subsection (2) or (3).

39 (b) (i) Within 90 days before the day on which a provisional permit holder under
40 Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this
41 section for a permit to carry a concealed firearm for lawful self defense.

42 (ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within
43 60 days after receiving an application, unless the bureau finds proof that the applicant is not
44 qualified to hold a permit under Subsection (2) or (3).

45 (iii) A permit issued under this Subsection (1)(b):

46 (A) is not valid until an applicant is 21 years old; and

47 (B) requires a \$10 application fee.

48 (iv) A person who applies for a permit under this Subsection (1)(b) is not required to
49 retake the firearms training described in Subsection 53-5-704(8).

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

52 ~~[(c)]~~ (d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505
53 do not apply to ~~[a person]~~ an individual issued a permit under Subsection (1)(a) or (b).

54 ~~[(d)]~~ (e) Subsection (4)(a) does not apply to a nonresident:

55 (i) active duty service member, who ~~[present]~~ presents to the bureau orders requiring
56 the active duty service member to report for duty in this state; or

57 (ii) ~~[an]~~ active duty service member's spouse, stationed with the active duty service

58 member, who presents to the bureau the active duty service member's orders requiring the
59 service member to report for duty in this state.

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

- 62 (i) has been or is convicted of a felony;
- 63 (ii) has been or is convicted of a crime of violence;
- 64 (iii) has been or is convicted of an offense involving the use of alcohol;
- 65 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
66 other controlled substances;
- 67 (v) has been or is convicted of an offense involving moral turpitude;
- 68 (vi) has been or is convicted of an offense involving domestic violence;
- 69 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
70 unless the adjudication has been withdrawn or reversed; and
- 71 (viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503
72 and federal law.

73 (b) In determining whether an applicant or permit holder [~~meets the qualifications set~~
74 ~~forth in~~] is qualified to hold a permit under Subsection (2)(a), the bureau shall consider
75 mitigating circumstances.

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

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

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

85 (c) In determining whether the applicant or permit holder has been or is a danger to self

86 or others, the bureau may inspect:

87 (i) expunged records of arrests and convictions of adults as provided in Section
88 77-40-109; and

89 (ii) juvenile court records as provided in Section 78A-6-209.

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

94 (i) hold a current concealed firearm or concealed weapon permit issued by the
95 appropriate permitting authority of the nonresident applicant's state of residency; and

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

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

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

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

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

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

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

111 (b) one recent dated photograph;

112 (c) one set of fingerprints; and

113 (d) evidence of general familiarity with the types of firearms to be concealed as defined

114 in Subsection (8).

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

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

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

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

125 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by
126 one of the following:

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

129 (ii) certification of general familiarity by ~~[a person]~~ an individual who has been
130 certified by the bureau, which may include a law enforcement officer, military or civilian
131 firearms instructor, or hunter safety instructor; or

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

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

136 (d) A person applying for a renewal permit is not required to retake the firearms
137 training described in this Subsection 53-5-704(8) if the person:

138 (i) has an unexpired permit; or

139 (ii) has a permit that expired less than one year before the date on which the renewal
140 application was submitted.

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

- 142 (i) be at least 21 years of age;
- 143 (ii) be currently eligible to possess a firearm under Section 76-10-503;
- 144 (iii) have:
- 145 (A) completed a firearm instruction training course from the National Rifle Association
- 146 or the Department of Public Safety, Division of Peace Officer Safety Standards and Training;
- 147 or
- 148 (B) received training equivalent to one of the courses referred to in Subsection
- 149 (9)(a)(iii)(A) as determined by the bureau;
- 150 (iv) have taken a course of instruction and passed a certification test as described in
- 151 Subsection (9)(c); and
- 152 (v) possess a Utah concealed firearm permit.
- 153 (b) An instructor's certification is valid for three years from the date of issuance, unless
- 154 revoked by the bureau.
- 155 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall
- 156 attend an instructional course and pass a test under the direction of the bureau.
- 157 (ii) (A) The bureau shall provide or contract to provide the course referred to in
- 158 Subsection (9)(c)(i) twice every year.
- 159 (B) The course shall include instruction on current Utah law related to firearms,
- 160 including concealed carry statutes and rules, and the use of deadly force by private citizens.
- 161 (d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of
- 162 \$50.00 at the time of application for initial certification.
- 163 (ii) The renewal fee for the certificate is \$25.
- 164 (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated
- 165 credit to cover the cost incurred in maintaining and improving the instruction program required
- 166 for concealed firearm instructors under this Subsection (9).
- 167 (10) A certified concealed firearms instructor shall provide each of the instructor's
- 168 students with the required course of instruction outline approved by the bureau.
- 169 (11) (a) (i) A concealed firearms instructor shall provide a signed certificate to [a

170 ~~person~~ an individual successfully completing the offered course of instruction.

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

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

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

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

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

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

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

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

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

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

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

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

192 (13) An applicant for certification or a concealed firearms instructor has the same
193 appeal rights as ~~set forth~~ described in Subsection (16).

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

197 (15) An individual who knowingly and willfully provides false information on an

198 application filed under this part is guilty of a class B misdemeanor, and the application may be
199 denied, or the permit may be suspended or revoked.

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

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

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

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

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

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

214 (iii) The final order is final bureau action for purposes of judicial review under Section
215 [63G-4-402](#).

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

218 Section 2. Section **53-5-710** is amended to read:

219 **53-5-710. Cross-references to concealed firearm permit restrictions.**

220 (1) A person with a permit of any kind to carry a concealed firearm may not carry a
221 concealed firearm in the following locations:

222 (a) any secure area prescribed in Section [76-10-523.5](#) in which firearms are prohibited
223 and notice of the prohibition posted;

224 (b) any airport secure area as provided in Section [76-10-529](#); or

225 (c) any house of worship or in any private residence where dangerous weapons are

226 prohibited as provided in Section 76-10-530.

227 (2) Notwithstanding Subsection 76-10-505.5[(2)](4), a person under the age of 21 with
228 a permit of any kind to carry a concealed firearm may not carry a concealed firearm on or about
229 school premises, as defined in Subsection 76-10-505.5(1)(a).

230 Section 3. Section 76-10-505.5 is amended to read:

231 **76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled**
232 **shotgun on or about school premises -- Penalties.**

233 (1) As used in this section, "on or about school premises" means:

234 (a) (i) in a public or private elementary or secondary school; or

235 (ii) on the grounds of any of those schools;

236 (b) (i) in a public or private institution of higher education; or

237 (ii) on the grounds of a public or private institution of higher education; and

238 (iii) (A) inside the building where a preschool or child care is being held, if the entire
239 building is being used for the operation of the preschool or child care; or

240 (B) if only a portion of a building is being used to operate a preschool or child care, in
241 that room or rooms where the preschool or child care operation is being held.

242 (2) A person may not possess any dangerous weapon, firearm, or short barreled
243 shotgun, as those terms are defined in Section 76-10-501, at a place that the person knows, or
244 has reasonable cause to believe, is on or about school premises as defined in this section.

245 (3) (a) Possession of a dangerous weapon on or about school premises is a class B
246 misdemeanor.

247 (b) Possession of a firearm or short barreled shotgun on or about school premises is a
248 class A misdemeanor.

249 (4) This section does not apply if:

250 (a) the person is authorized to possess a firearm as provided under Section 53-5-704,
251 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

252 (b) the person is authorized to possess a firearm as provided under Section 53-5-704.5,
253 unless the person is in a location where the person is prohibited from carrying a firearm under

254 Subsection 53-5-710(2);

255 [~~(b)~~] (c) the possession is approved by the responsible school administrator;

256 [~~(c)~~] (d) the item is present or to be used in connection with a lawful, approved activity

257 and is in the possession or under the control of the person responsible for its possession or use;

258 or

259 [~~(d)~~] (e) the possession is:

260 (i) at the person's place of residence or on the person's property; or

261 (ii) in any vehicle lawfully under the person's control, other than a vehicle owned by

262 the school or used by the school to transport students.

263 (5) This section does not prohibit prosecution of a more serious weapons offense that

264 may occur on or about school premises.