

GUN SAFETY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill concerns a waiting period for the sale of a firearm.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a waiting period between the purchase of a firearm from a dealer and the delivery of the firearm to the purchaser;
- ▶ creates exceptions to the waiting period; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-501, as last amended by Laws of Utah 2015, Chapters 212, 406

76-10-526, as last amended by Laws of Utah 2021, Chapters 166, 277

76-10-527, as last amended by Laws of Utah 2009, Chapter 20

ENACTS:

76-10-526.1, Utah Code Annotated 1953



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

Section 1. Section **76-10-501** is amended to read:

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#) within the Department of Public Safety.

(3) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its

59 presence; and

60 (ii) readily accessible for immediate use.

61 (b) A firearm that is unloaded and securely encased is not a concealed firearm for the
62 purposes of this part.

63 (4) "Criminal history background check" means a criminal background check
64 conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal
65 Firearms Licensee, through the bureau or the local law enforcement agency where the firearms
66 dealer conducts business.

67 (5) "Curio or relic firearm" means a firearm that:

68 (a) is of special interest to a collector because of a quality that is not associated with
69 firearms intended for:

70 (i) sporting use;

71 (ii) use as an offensive weapon; or

72 (iii) use as a defensive weapon;

73 (b) (i) was manufactured at least 50 years before the current date; and

74 (ii) is not a replica of a firearm described in Subsection (5)(b)(i);

75 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
76 firearms to be a curio or relic of museum interest;

77 (d) derives a substantial part of its monetary value:

78 (i) from the fact that the firearm is:

79 (A) novel;

80 (B) rare; or

81 (C) bizarre; or

82 (ii) because of the firearm's association with an historical:

83 (A) figure;

84 (B) period; or

85 (C) event; and

86 (e) has been designated as a curio or relic firearm by the director of the United States
87 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

88 (6) (a) "Dangerous weapon" means:

89 (i) a firearm; or

90 (ii) an object that in the manner of its use or intended use is capable of causing death or
91 serious bodily injury.

92 (b) The following factors are used in determining whether any object, other than a
93 firearm, is a dangerous weapon:

94 (i) the location and circumstances in which the object was used or possessed;

95 (ii) the primary purpose for which the object was made;

96 (iii) the character of the wound, if any, produced by the object's unlawful use;

97 (iv) the manner in which the object was unlawfully used;

98 (v) whether the manner in which the object is used or possessed constitutes a potential
99 imminent threat to public safety; and

100 (vi) the lawful purposes for which the object may be used.

101 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
102 as defined by Section [76-10-306](#).

103 (7) "Dealer" means a person who is:

104 (a) licensed under 18 U.S.C. Sec. 923; and

105 (b) engaged in the business of selling, leasing, or otherwise transferring a handgun,
106 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

107 (8) "Enter" means intrusion of the entire body.

108 (9) "Federal Firearms Licensee" means a person who:

109 (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

110 (b) is engaged in the activities authorized by the specific category of license held.

111 (10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or
112 short barreled rifle, or a device that could be used as a dangerous weapon from which is
113 expelled a projectile by action of an explosive.

114 (b) As used in Sections [76-10-526](#), [76-10-526.1](#), and [76-10-527](#), "firearm" does not
115 include an antique firearm.

116 (11) "Firearms transaction record form" means a form created by the bureau to be
117 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

118 (12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can
119 be readily restored to fire, automatically more than one shot without manual reloading by a
120 single function of the trigger.

121 (13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded
122 or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which,
123 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

124 (b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol
125 or revolver" do not include an antique firearm.

126 (14) "House of worship" means a church, temple, synagogue, mosque, or other
127 building set apart primarily for the purpose of worship in which religious services are held and
128 the main body of which is kept for that use and not put to any other use inconsistent with its
129 primary purpose.

130 (15) "Prohibited area" means a place where it is unlawful to discharge a firearm.

131 (16) "Readily accessible for immediate use" means that a firearm or other dangerous
132 weapon is carried on the person or within such close proximity and in such a manner that it can
133 be retrieved and used as readily as if carried on the person.

134 (17) "Residence" means an improvement to real property used or occupied as a primary
135 or secondary residence.

136 (18) "Securely encased" means not readily accessible for immediate use, such as held
137 in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
138 storage area of a motor vehicle, not including a glove box or console box.

139 (19) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel
140 or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels
141 of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by
142 alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer
143 than 26 inches.

144 (20) "Shotgun" means a smooth bore firearm designed to fire cartridges containing
145 pellets or a single slug.

146 (21) "Shoulder arm" means a firearm that is designed to be fired while braced against
147 the shoulder.

148 (22) "Slug" means a single projectile discharged from a shotgun shell.

149 (23) "State entity" means a department, commission, board, council, agency,
150 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
151 unit, bureau, panel, or other administrative unit of the state.

152 (24) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

153 Section 2. Section 76-10-526 is amended to read:

154 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
155 **Exemption for concealed firearm permit holders and law enforcement officers.**

156 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
157 include a temporary permit issued under Section 53-5-705.

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

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

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

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

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

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

171 (i) the dealer identification number;

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

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

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

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

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

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

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

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

187 (a) review the criminal history files, including juvenile court records, and the
188 temporary restricted file created under Section 53-5c-301, to determine if the individual is
189 prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

190 (b) inform the dealer that:

191 (i) the records indicate the individual is prohibited; or

192 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

193 (c) provide the dealer with a unique transaction number for that inquiry; and

194 (d) provide a response to the requesting dealer during the call for a criminal
195 background check, or by return call, or other electronic means, without delay, except in case of
196 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
197 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
198 delay.

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

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

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

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

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

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

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

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

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

222 (d) The bureau shall:

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

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

225 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim
226 Committee before November 1 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

261 (b) at the time of purchase or, if the waiting period described in Subsection
262 [76-10-526.1](#)(2) applies, at the time of distribution, distribute a cable-style gun lock provided to
263 the dealer under Subsection [62A-15-103](#)(3) to a customer purchasing a shotgun, short barreled
264 shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be
265 accompanied by a gun lock at the time of purchase.

266 Section 3. Section [76-10-526.1](#) is enacted to read:

267 **[76-10-526.1](#). Waiting period for purchase of firearm -- Exceptions -- Penalty.**

268 (1) As used in this section, "valid permit to carry a concealed firearm" does not include
269 a temporary permit issued under Section [53-5-705](#).

270 (2) Except as provided in Subsection (3), a dealer may not deliver a firearm to a
271 purchaser before the later of:

272 (a) five days after the day on which the firearm was purchased; or

273 (b) the day on which the background check described in Section [76-10-526](#) is
274 completed.

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

- 276 (a) to the trade of one firearm for another firearm; or
- 277 (b) to a purchase of a firearm by:
- 278 (i) an individual with a valid permit to carry a concealed firearm who is exempt from
- 279 the criminal background check fee under Subsection 76-10-526(13);
- 280 (ii) a law enforcement officer who is exempt from the criminal background check fee
- 281 under Subsection 76-10-526(14); or
- 282 (iii) a Federal Firearm Licensee.
- 283 (4) A violation of Subsection (2) is subject to the penalties described in Section
- 284 76-10-527.

285 Section 4. Section **76-10-527** is amended to read:

286 **76-10-527. Penalties.**

287 (1) A dealer is guilty of a class A misdemeanor who willfully and intentionally:

288 (a) requests, obtains, or seeks to obtain criminal history background information under

289 false pretenses;

290 (b) disseminates criminal history background information; or

291 (c) violates Section 76-10-526 or 76-10-526.1.

292 (2) A person who purchases or transfers a firearm is guilty of a felony of the third

293 degree if the person willfully and intentionally makes a false statement of the information

294 required:

295 (a) for a criminal background check in Section 76-10-526; or

296 (b) for an exemption to the waiting period under Section 76-10-526.1.

297 (3) Except as otherwise provided in Subsection (1), a dealer is guilty of a felony of the

298 third degree if the dealer willfully and intentionally sells or transfers a firearm in violation of

299 this part.

300 (4) A person is guilty of a felony of the third degree if the person purchases a firearm

301 with the intent to:

302 (a) resell or otherwise provide a firearm to a person who is ineligible to purchase or

303 receive a firearm from a dealer; or

304 (b) transport a firearm out of this state to be resold to an ineligible person.