

Representative A. Cory Maloy proposes the following substitute bill:

SALE OF A FIREARM AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill addresses sale of a firearm.

Highlighted Provisions:

This bill:

▶ directs the Bureau of Criminal Identification (bureau) to create an online process that allows an individual involved in the sale of a firearm to determine if:

- the other party to the sale has a valid concealed carry permit;
- the other party to the sale is a restricted person; or
- the firearm has been reported as stolen; and

▶ directs the bureau to notify an individual using the online process that:

• the individual could be criminally prosecuted for selling or purchasing a stolen firearm or selling a firearm to a restricted person; and

- the bureau is immune from suits arising from the bureau's operation of the online process.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63G-7-201**, as last amended by Laws of Utah 2021, Chapter 352

29 ENACTS:

30 **76-10-526.1**, Utah Code Annotated 1953

31

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

33 Section 1. Section **63G-7-201** is amended to read:

34 **63G-7-201. Immunity of governmental entities and employees from suit.**

35 (1) Except as otherwise provided in this chapter, each governmental entity and each
36 employee of a governmental entity are immune from suit for any injury that results from the
37 exercise of a governmental function.

38 (2) Notwithstanding the waiver of immunity provisions of Section **63G-7-301**, a
39 governmental entity, its officers, and its employees are immune from suit:

40 (a) as provided in Section **78B-4-517**; and

41 (b) for any injury or damage resulting from the implementation of or the failure to
42 implement measures to:

43 (i) control the causes of epidemic and communicable diseases and other conditions
44 significantly affecting the public health or necessary to protect the public health as set out in
45 Title 26A, Chapter 1, Local Health Departments;

46 (ii) investigate and control suspected bioterrorism and disease as set out in Title 26,
47 Chapter 23b, Detection of Public Health Emergencies Act;

48 (iii) respond to a national, state, or local emergency, a public health emergency as
49 defined in Section **26-23b-102**, or a declaration by the President of the United States or other
50 federal official requesting public health related activities, including the use, provision,
51 operation, and management of:

52 (A) an emergency shelter;

53 (B) housing;

54 (C) a staging place; or

55 (D) a medical facility; and

56 (iv) adopt methods or measures, in accordance with Section **26-1-30**, for health care

57 providers, public health entities, and health care insurers to coordinate among themselves to
58 verify the identity of the individuals they serve.

59 (3) A governmental entity, its officers, and its employees are immune from suit, and
60 immunity is not waived, for any injury if the injury arises out of or in connection with, or
61 results from:

62 (a) a latent dangerous or latent defective condition of:

63 (i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or
64 viaduct; or

65 (ii) another structure located on any of the items listed in Subsection (3)(a)(i); [or]

66 (b) a latent dangerous or latent defective condition of any public building, structure,
67 dam, reservoir, or other public improvement; or

68 (c) the exercise or performance of a function under Section [76-10-526.1](#).

69 (4) A governmental entity, its officers, and its employees are immune from suit, and
70 immunity is not waived, for any injury proximately caused by a negligent act or omission of an
71 employee committed within the scope of employment, if the injury arises out of or in
72 connection with, or results from:

73 (a) the exercise or performance, or the failure to exercise or perform, a discretionary
74 function, whether or not the discretion is abused;

75 (b) except as provided in Subsections [63G-7-301](#)(2)(j), (3), and (4), assault, battery,
76 false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process,
77 libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation
78 of civil rights;

79 (c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue,
80 deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar
81 authorization;

82 (d) a failure to make an inspection or making an inadequate or negligent inspection;

83 (e) the institution or prosecution of any judicial or administrative proceeding, even if
84 malicious or without probable cause;

85 (f) a misrepresentation by an employee whether or not the misrepresentation is
86 negligent or intentional;

87 (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

- 88 (h) the collection or assessment of taxes;
- 89 (i) an activity of the Utah National Guard;
- 90 (j) the incarceration of a person in a state prison, county or city jail, or other place of
91 legal confinement;
- 92 (k) a natural condition on publicly owned or controlled land;
- 93 (l) a condition existing in connection with an abandoned mine or mining operation;
- 94 (m) an activity authorized by the School and Institutional Trust Lands Administration
95 or the Division of Forestry, Fire, and State Lands;
- 96 (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch,
97 canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river,
98 if:
 - 99 (i) the trail is designated under a general plan adopted by a municipality under Section
100 10-9a-401 or by a county under Section 17-27a-401;
 - 101 (ii) the trail right-of-way or the right-of-way where the trail is located is open to public
102 use as evidenced by a written agreement between:
 - 103 (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail
104 is located; and
 - 105 (B) the municipality or county where the trail is located; and
 - 106 (iii) the written agreement:
 - 107 (A) contains a plan for operation and maintenance of the trail; and
 - 108 (B) provides that an owner or operator of the trail right-of-way or of the right-of-way
109 where the trail is located has, at a minimum, the same level of immunity from suit as the
110 governmental entity in connection with or resulting from the use of the trail;
 - 111 (o) research or implementation of cloud management or seeding for the clearing of fog;
 - 112 (p) the management of flood waters, earthquakes, or natural disasters;
 - 113 (q) the construction, repair, or operation of flood or storm systems;
 - 114 (r) the operation of an emergency vehicle, while being driven in accordance with the
115 requirements of Section 41-6a-212;
 - 116 (s) the activity of:
 - 117 (i) providing emergency medical assistance;
 - 118 (ii) fighting fire;

- 119 (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
- 120 (iv) an emergency evacuation;
- 121 (v) transporting or removing an injured person to a place where emergency medical
- 122 assistance can be rendered or where the person can be transported by a licensed ambulance
- 123 service; or
- 124 (vi) intervening during a dam emergency;
- 125 (t) the exercise or performance, or the failure to exercise or perform, any function
- 126 pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;
- 127 (u) an unauthorized access to government records, data, or electronic information
- 128 systems by any person or entity;
- 129 (v) an activity of wildlife, as defined in Section [23-13-2](#), that arises during the use of a
- 130 public or private road; or
- 131 (w) a communication between employees of one or more law enforcement agencies
- 132 related to the employment, disciplinary history, character, professional competence, or physical
- 133 or mental health of a peace officer, or a former, current, or prospective employee of a law
- 134 enforcement agency, including any communication made in accordance with Section
- 135 [53-14-101](#).

136 Section 2. Section **76-10-526.1** is enacted to read:

137 **76-10-526.1. Information check before private sale of firearm.**

138 (1) As used in this section:

139 (a) "Governmental entity" means the state and the state's political subdivisions.

140 (b) "Law enforcement agency" means the same as that term is defined in Section

141 [53-1-102](#).

142 (2) Subject to Subsections (3) through (5), the bureau shall create an online process
143 that allows an individual who is selling or purchasing a firearm to voluntarily determine:

144 (a) if the other individual involved in the sale of the firearm:

145 (i) has a valid concealed carry permit; or

146 (ii) is a restricted person under Subsection [76-10-503\(1\)\(b\)\(i\)](#) according to state
147 records; or

148 (b) based on the serial number of the firearm, if the firearm is reported as stolen.

149 (3) Subsection (2) does not apply to a federal firearms licensee or dealer.

150 (4) The bureau may not:
151 (a) when transmitting information under Subsection (2)(a)(ii), include the felony for
152 which an individual is a restricted person; or
153 (b) provide information related to a request under Subsection (2) to a law enforcement
154 agency.
155 (5) The bureau shall:
156 (a) notify each individual who uses the online process created in Subsection (2) that:
157 (i) the individual may be subject to criminal prosecution under Section [76-6-408](#) for
158 purchasing or selling a stolen firearm or under Section [76-10-503](#) for selling a firearm to a
159 restricted person; and
160 (ii) the bureau is immune from suit for an injury arising out of the bureau's compliance
161 with this section under Section [63G-7-201](#);
162 (b) require an individual using the process under Subsection (2) to verify the
163 individual's identity; and
164 (c) before reporting the information requested under Subsection (2)(a), receive consent
165 for the release of the information from the individual whose information is requested.
166 (6) A governmental entity may not require an individual who is selling or purchasing a
167 firearm to use the process under Subsection (2).
168 (7) If an individual uses the process under Subsection (2), the individual is not
169 required, based on the information the individual receives from the bureau, to:
170 (a) make a report to a law enforcement agency; or
171 (b) cancel the sale of the firearm.
172 (8) Except as provided in Subsection (9), after responding to a request under
173 Subsection (2), the bureau shall immediately dispose of all information related to the request.
174 (9) (a) An individual using the online process under Subsection (2) may request, for
175 future use by the individual, that the bureau retain any online account created.
176 (b) In retaining an account under this Subsection (9), the bureau:
177 (i) shall only preserve the personal information of the individual that is strictly
178 necessary to retain the account; and
179 (ii) may not preserve information on the individual's previous requests under
180 Subsection (2).

181 (10) This section does not create a civil cause of action arising from the sale or
182 purchase of a firearm under this section.

183 Section 3. **Effective date.**

184 This bill takes effect on July 1, 2023.