

# Utah Concealed Carry Laws and Rules

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## **53-5-701. Short title.**

This part is known as the "Concealed Weapon Act."

## **53-5-702. Definitions.**

(1) As used in this part:

(a) "Board" means the Concealed Weapon Review Board created in Section **53-5-703**.

(b) "Commissioner" means the commissioner of the Department of Public Safety.

(c) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(i) a finding of guilt based on evidence presented to a judge or jury;

(ii) a guilty plea;

(iii) a plea of nolo contendere;

(iv) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(v) a pending diversion agreement; or

(vi) a conviction which has been reduced pursuant to Section **76-3-402**.

(d) "Division" means the Criminal Investigations and Technical Services Division created in Section **53-10-103**.

(2) The definitions in Section **76-10-501** apply to this part.

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

(1) There is created within the division the Concealed Weapon Review Board.

(2) (a) The board is comprised of not more than five members appointed by the commissioner on a bipartisan basis.

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

(3) (a) Except as required by Subsection (b), as terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

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

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

(5) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107**.



(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107**.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

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

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

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

(1) (a) The division or its designated agent shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application, unless during the 60-day period the division finds proof that the applicant is not of good character.

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

(2) An applicant satisfactorily demonstrates good character if the applicant:

(a) has not been convicted of a felony;

(b) has not been convicted of a crime of violence;

(c) has not been convicted of an offense involving the use of alcohol;

(d) has not been convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(e) has not been convicted of an offense involving moral turpitude;

(f) has not been convicted of an offense involving domestic violence;

(g) has not been adjudicated by a court of a state or of the United States as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(h) is qualified to purchase and possess a dangerous weapon and a handgun pursuant to Section **76-10-503** and federal law.

(3) (a) The division may deny, suspend, or revoke a concealed firearm permit if the licensing authority has reasonable cause to believe that the applicant has been or is a danger to self or others as demonstrated by evidence including, but not limited to:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

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

(c) In determining whether the applicant has been or is a danger to self or others, the division may inspect:



(i) expunged records of arrests and convictions of adults as provided in Section **77-18-15**; and

(ii) juvenile court records as provided in Section **78-3a-206**.

(d) (i) If a person granted a permit under this part has been charged with a crime of violence in any state, the division shall suspend the permit.

(ii) Upon notice of the acquittal of the person charged, or notice of the charges having been dropped, the division shall immediately reinstate the suspended permit.

(4) A former peace officer who departs full-time employment as a peace officer, in an honorable manner, shall be issued a concealed firearm permit within five years of that departure if the officer meets the requirements of this section.

(5) In assessing good character under Subsection (2), the licensing authority shall consider mitigating circumstances.

(6) Except as provided in Subsection (7), the licensing authority shall also require the

applicant to provide:

(a) address of applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

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

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

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

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

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

(b) Evidence of general familiarity with the types of firearms to be concealed may be satisfied by one of the following:

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

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

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

(c) Any instruction taken by a student under Subsection (8)(b) shall be in person and not through electronic means.

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

(a) be at least 21 years of age; and

(b) be currently eligible to possess a firearm under Section **76-10-503** and federal law.

(10) Each certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the division.

(11) All concealed firearms instructors are required to provide a signed certificate to persons completing the course of instruction, which certificate shall be provided by the



applicant to the division.

(12) The division may deny, suspend, or revoke the certification of a concealed firearms instructor if the licensing authority has reason to believe the applicant has:

- (a) become ineligible to possess a firearm under Section **76-10-503** or federal law; or
- (b) knowingly and willfully provided false information to the division.

(13) A concealed firearms instructor has the same appeal rights as set forth in Subsection (16).

(14) In issuing a permit under this part, the licensing authority is not vicariously liable for damages caused by the permit holder.

(15) If any person knowingly and willfully provides false information on an application filed under this part, he is guilty of a class B misdemeanor, and his application may be denied, or his permit may be suspended or revoked.

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

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

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

(d) On appeal to the board, the agency shall have the burden of proof by a preponderance of the evidence.

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

(ii) The final order shall be in the form prescribed by Subsection **63-46b-5(1)(i)**.

(iii) The final order is final agency action for purposes of judicial review under Section **63-46b-15**.

(17) The commissioner may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, necessary to administer this chapter.

### **53-5-706. Permit -- Fingerprints transmitted to division -- Report from division.**

(1) (a) Except as provided in Subsection (2), the fingerprints of each applicant shall be taken on a form prescribed by the division and shall be forwarded to the division.

(b) Upon receipt of the fingerprints and the fee prescribed in Section **53-5-707**, the division shall conduct a search of its files for criminal history information pertaining to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through its files.

(c) The division shall promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office, or of which a record is found in the files of the Federal Bureau of Investigation.

(d) A permit may not be issued by any licensing authority until receipt of the report from the division.

(2) If the permit applicant has previously applied to the same licensing authority for a permit to carry concealed firearms and the applicant's fingerprints and fee have been



previously forwarded within one year to the division, the licensing authority shall note the previous identification numbers and other data which would provide positive identification in the files of the division on the copy of any subsequent permit submitted to the division in accordance with this section, and no additional application form, fingerprints, or fee are required.

**53-5-707. Permit -- Fees -- Disposition.**

(1) Each applicant for a permit shall pay a fee of \$35 at the time of filing an application. The initial fee shall be waived for an applicant who is a law enforcement officer under Section **53-13-103**.

(2) The renewal fee for the permit is \$10.

(3) The replacement fee for the permit is \$10.

(4) The late fee for the renewal permit is \$7.50.

(5) All fees shall promptly be deposited in the state treasury and credited to the General Fund.

(6) The division may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit. The division shall promptly forward any fees collected to the appropriate agency.

**53-5-708. Permit -- Names private.**

(1) When any permit is issued, a record shall be maintained in the office of the licensing authority. Notwithstanding the requirements of Subsection **63-2-301(1)(b)**, the names, addresses, telephone numbers, dates of birth, and Social Security numbers of persons receiving permits are protected records under Subsection **63-2-304 (10)**.

(2) Copies of each permit issued shall be filed immediately by the licensing authority with the division.

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

A person with a permit to carry a concealed firearm may not carry a concealed firearm in the following locations:

(1) any secure area prescribed in Section **76-10-523.5** in which firearms are prohibited and notice of the prohibition posted;

(2) in any airport secure area as provided in Section **76-10-529**; or

(3) in any house of worship or in any private residence where dangerous weapons are prohibited as provided in Section **76-10-530**.

**53-5-711. Law enforcement officials and judges -- Training requirements -- Qualification -- Revocation.**

(1) For purposes of this section and Section **76-10-523**:

(a) "Judge" means a judge or justice of a court of record or court not of record, but does not include a judge pro tem or senior judge.

(b) "Law enforcement official of this state" means:

(i) a member of the Board of Pardons and Paroles;

(ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;



- (iii) the attorney general;
  - (iv) an assistant attorney general designated as a criminal prosecutor; or
  - (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.
- (2) To qualify for the exemptions enumerated in Section **76-10-523**, a law enforcement official or judge shall complete the following training requirements:
- (a) meet the requirements of Sections **53-5-704**, **53-5-706**, and **53-5-707**; and
  - (b) successfully complete an additional course of training as established by the commissioner of public safety designed to assist them while carrying out their official law enforcement and judicial duties as agents for the state or its political subdivisions.
- (3) Annual requalification requirements for law enforcement officials and judges shall be established by the:
- (a) Board of Pardons and Paroles by rule for its members;
  - (b) Judicial Council by rule for judges; and
  - (c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.
- (4) The division may:
- (a) issue a certificate of qualification to a judge or law enforcement official who has completed the requirements of Subsection (1), which certificate of qualification is valid until revoked;
  - (b) revoke the certificate of qualification of a judge or law enforcement official who fails to meet the annual requalification criteria established pursuant to Subsection (3); and
  - (c) certify instructors for the training requirements of this section.

**76-2-401. Justification as defense -- When allowed.**

- (1) Conduct which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed:
- (a) when the actor's conduct is in defense of persons or property under the circumstances described in Sections **76-2-402** through **76-2-406** of this part;
  - (b) when the actor's conduct is reasonable and in fulfillment of his duties as a governmental officer or employee;
  - (c) when the actor's conduct is reasonable discipline of minors by parents, guardians, teachers, or other persons in loco parentis, as limited by Subsection (2);
  - (d) when the actor's conduct is reasonable discipline of persons in custody under the laws of the state; or
  - (e) when the actor's conduct is justified for any other reason under the laws of this state.
- (2) The defense of justification under Subsection (1)(c) is not available if the offense charged involves causing serious bodily injury, as defined in Section **76-1-601**, serious physical injury, as defined in Section **76-5-109**, or the death of the minor.

**76-2-402. Force in defense of person -- Forcible felony defined.**

- (1) A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that force is necessary to defend himself or a third person against such other's imminent use of unlawful force. However, that person is justified in using force intended or likely to cause death or serious bodily injury only if he or she reasonably believes that force is necessary to prevent death or serious bodily injury



to himself or a third person as a result of the other's imminent use of unlawful force, or to prevent the commission of a forcible felony.

(2) A person is not justified in using force under the circumstances specified in Subsection (1) if he or she:

(a) initially provokes the use of force against himself with the intent to use force as an excuse to inflict bodily harm upon the assailant;

(b) is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or

(c) (i) was the aggressor or was engaged in a combat by agreement, unless he withdraws from the encounter and effectively communicates to the other person his intent to do so and, notwithstanding, the other person continues or threatens to continue the use of unlawful force; and

(ii) for purposes of Subsection (i) the following do not, by themselves, constitute "combat by agreement":

(A) voluntarily entering into or remaining in an ongoing relationship; or

(B) entering or remaining in a place where one has a legal right to be.

(3) A person does not have a duty to retreat from the force or threatened force described in Subsection (1) in a place where that person has lawfully entered or remained, except as provided in Subsection (2)(c).

(4) For purposes of this section, a forcible felony includes aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping, and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76, Chapter 5, and arson, robbery, and burglary as defined in Title 76, Chapter 6. Any other felony offense which involves the use of force or violence against a person so as to create a substantial danger of death or serious bodily injury also constitutes a forcible felony. Burglary of a vehicle, defined in Section **76-6-204**, does not constitute a forcible felony except when the vehicle is occupied at the time unlawful entry is made or attempted.

(5) In determining imminence or reasonableness under Subsection (1), the trier of fact may consider, but is not limited to, any of the following factors:

(a) the nature of the danger;

(b) the immediacy of the danger;

(c) the probability that the unlawful force would result in death or serious bodily injury;

(d) the other's prior violent acts or violent propensities; and

(e) any patterns of abuse or violence in the parties' relationship.

### **76-2-403. Force in arrest.**

Any person is justified in using any force, except deadly force, which he reasonably believes to be necessary to effect an arrest or to defend himself or another from bodily harm while making an arrest.

### **76-2-404. Peace officer's use of deadly force.**

(1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection **77-18-5.5(3)** or (4);



(b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

(i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

(2) If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (1)(b) or (1)(c).

#### **76-2-405. Force in defense of habitation.**

(1) A person is justified in using force against another when and to the extent that he reasonably believes that the force is necessary to prevent or terminate the other's unlawful entry into or attack upon his habitation; however, he is justified in the use of force which is intended or likely to cause death or serious bodily injury only if:

(a) the entry is made or attempted in a violent and tumultuous manner, surreptitiously, or by stealth, and he reasonably believes that the entry is attempted or made for the purpose of assaulting or offering personal violence to any person, dwelling, or being in the habitation and he reasonably believes that the force is necessary to prevent the assault or offer of personal violence; or

(b) he reasonably believes that the entry is made or attempted for the purpose of committing a felony in the habitation and that the force is necessary to prevent the commission of the felony.

(2) The person using force or deadly force in defense of habitation is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the entry or attempted entry is unlawful and is made or attempted by use of force, or in a violent and tumultuous manner, or surreptitiously or by stealth, or for the purpose of committing a felony.

#### **76-2-406. Force in defense of property.**

A person is justified in using force, other than deadly force, against another when and to the extent that he reasonably believes that force is necessary to prevent or terminate criminal interference with real property or personal property:

(1) Lawfully in his possession; or

(2) Lawfully in the possession of a member of his immediate family; or

(3) Belonging to a person whose property he has a legal duty to protect.

#### **76-2-407. Deadly force in defense of persons on real property.**

(1) A person is justified in using force intended or likely to cause death or serious bodily injury against another in his defense of persons on real property other than his habitation if:

(a) he is in lawful possession of the real property;

(b) he reasonably believes that the force is necessary to prevent or terminate the other person's trespass onto the real property;

(c) the trespass is made or attempted by use of force or in a violent and tumultuous





manner; and

(d) (i) the person reasonably believes that the trespass is attempted or made for the purpose of committing violence against any person on the real property and he reasonably believes that the force is necessary to prevent personal violence; or

(ii) the person reasonably believes that the trespass is made or attempted for the purpose of committing a forcible felony as defined in Section **76-2-402** that poses imminent peril of death or serious bodily injury to a person on the real property and that the force is necessary to prevent the commission of that forcible felony.

(2) The person using deadly force in defense of persons on real property under Subsection (1) is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the trespass or attempted trespass is unlawful and is made or attempted by use of force, or in a violent and tumultuous manner, or for the purpose of committing a forcible felony.

### **76-8-311.1. Secure areas -- Items prohibited -- Penalty.**

(1) In addition to the definitions in Section **76-10-501**, as used in this section:

(a) "Correctional facility" has the same meaning as defined in Section **76-8-311.3**.

(b) "Explosive" has the same meaning as defined for "explosive, chemical, or incendiary device" defined in Section **76-10-306**.

(c) "Law enforcement facility" means a facility which is owned, leased, or operated by a law enforcement agency.

(d) "Mental health facility" has the same meaning as defined in Section **62A-15-602**.

(e) (i) "Secure area" means any area into which certain persons are restricted from transporting any firearm, ammunition, dangerous weapon, or explosive.

(ii) A "secure area" may not include any area normally accessible to the public.

(2) (a) A person in charge of a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm, ammunition, dangerous weapon, or explosive.

(b) Subsections (2)(a), (3), (4), (5), and (6) apply to higher education secure area hearing rooms referred to in Subsections **53B-3-103**(2)(a)(ii) and (b).

(3) At least one notice shall be prominently displayed at each entrance to an area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) Provisions shall be made to provide a secure weapons storage area so that persons entering the secure area may store their weapons prior to entering the secure area.

(b) The entity operating the facility shall be responsible for weapons while they are stored in the storage area.

(5) It is a defense to any prosecution under this section that the accused, in committing the act made criminal by this section, acted in conformity with the facility's rule or policy established pursuant to this section.

(6) (a) Any person who knowingly or intentionally transports into a secure area of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony.

(b) Any person violates Section **76-10-306** who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a secure area of a facility.

### **76-8-311.3. Items prohibited in correctional and mental health facilities -- Penalties.**

(1) As used in this section:



- (a) "Contraband" means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.
- (b) "Controlled substance" means any substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.
- (c) "Correctional facility" means:
- (i) any facility operated by or contracting with the Department of Corrections to house offenders in either a secure or nonsecure setting;
  - (ii) any facility operated by a municipality or a county to house or detain criminal offenders;
  - (iii) any juvenile detention facility; and
  - (iv) any building or grounds appurtenant to the facility or lands granted to the state, municipality, or county for use as a correctional facility.
- (d) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act.
- (e) "Mental health facility" has the same meaning as defined in Section **62A-15-602**.
- (f) "Offender" means a person in custody at a correctional facility.
- (g) "Secure area" has the same meaning as provided in Section **76-8-311.1**.
- (2) Notwithstanding Section **76-10-500**, a correctional or mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be:
- (a) transported to or upon a correctional or mental health facility;
  - (b) sold or given away at any correctional or mental health facility;
  - (c) given to or used by any offender at a correctional or mental health facility; or
  - (d) knowingly or intentionally possessed at a correctional or mental health facility.
- (3) It is a defense to any prosecution under this section if the accused in committing the act made criminal by this section:
- (a) with respect to a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;
  - (b) with respect to a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;
  - (c) with respect to a correctional facility operated by a county, acted in conformity with the policy of the county; or
  - (d) with respect to a mental health facility, acted in conformity with the policy of the mental health facility.
- (4) (a) Any person who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.
- (b) Any person who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.
- (c) Any offender who possesses at a correctional facility, or any detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.
- (d) Any person who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a



correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony.

(e) Any person violates Section **76-10-306** who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.

(5) (a) A person is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine, whether or not lawfully prescribed for the offender; or
- (iii) poison in any quantity.

(b) A person is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine, whether or not lawfully prescribed for the offender; or
- (iii) poison in any quantity.

(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or
- (iii) poison in any quantity.

(d) A person is guilty of a class A misdemeanor who, with the intent to directly or indirectly provide or sell any tobacco product to an offender, directly or indirectly:

- (i) transports, delivers, or distributes any tobacco product to an offender or on the grounds of any correctional facility;
- (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or
- (iii) facilitates, arranges, or causes the transport of any tobacco product in violation of this section to an offender or on the grounds of any correctional facility.

(e) A person is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine; or
- (iii) poison in any quantity.

(f) A person is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility. The provisions of Subsection (5)(d) regarding any tobacco product take precedence over this Subsection (5)(f).

(g) Exemptions may be granted for worship for Native American inmates pursuant to Section **64-13-40**.

(6) The possession, distribution, or use of a controlled substance at a correctional



facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

(7) The department shall make rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product to offenders is a class A misdemeanor.

#### **76-10-500. Uniform law.**

(1) The individual right to keep and bear arms being a constitutionally protected right, the Legislature finds the need to provide uniform laws throughout the state. Except as specifically provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

(a) prohibited from owning, possessing, purchasing, selling, transferring, transporting, or keeping any firearm at his place of residence, property, business, or in any vehicle lawfully in his possession or lawfully under his control; or

(b) required to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(2) This part is uniformly applicable throughout this state and in all its political subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities. Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.

#### **76-10-501. Definitions.**

As used in this part:

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

(i) (A) with a matchlock, flintlock, percussion cap, or similar type of ignition system; and

(B) that was manufactured in or before 1898; or

(ii) 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) any weapon that incorporates a firearm frame or receiver;

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

(iii) any 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) (a) "Concealed dangerous weapon" means a dangerous weapon that is covered,



hidden, or secreted in a manner that the public would not be aware of its presence and is readily accessible for immediate use.

(b) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.

(3) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun through the division or the local law enforcement agency where the firearms dealer conducts business.

(4) "Curio or relic firearm" means any firearm that:

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

- (i) sporting use;
- (ii) use as an offensive weapon; or
- (iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years prior to the current date; and

(ii) is not a replica of a firearm described in Subsection (4)(b)(i);

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

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

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

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(C) bizarre; or

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

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 178.11.

(5) (a) "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether a knife, or any other item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon:

(i) the character of the instrument, object, or thing;

(ii) the character of the wound produced, if any;

(iii) the manner in which the instrument, object, or thing was used; and

(iv) the other lawful purposes for which the instrument, object, or thing may be used.

(b) "Dangerous weapon" does not include any explosive, chemical, or incendiary device as defined by Section **76-10-306**.

(6) "Dealer" means every person who is licensed under crimes and criminal procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(7) "Division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section **53-10-103**.

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

(9) (a) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or sawed-



off rifle, or any device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections **76-10-526** and **76-10-527**, "firearm" does not include an antique firearm.

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

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

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

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

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

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

(15) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be

retrieved and used as readily as if carried on the person.

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

(17) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

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

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

(20) "Violent felony" means the same as defined in Section **76-3-203.5**.

#### **76-10-502. When weapon deemed loaded.**

(1) For the purpose of this chapter, any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position.

(2) Pistols and revolvers shall also be deemed to be loaded when an unexpended cartridge, shell, or projectile is in a position whereby the manual operation of any



mechanism once would cause the unexpended cartridge, shell, or projectile to be fired.

(3) A muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

**76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons.**

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section **76-3-203.5**;

(ii) is on probation or parole for any felony;

(iii) is on parole from a secure facility as defined in Section **62A-7-101**; or

(iv) within the last ten years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony as defined in Section **76-3-203.5**.

(b) A Category II restricted person is a person who:

(i) has been convicted of or is under indictment for any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section **58-37-2**;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section **58-37-2**;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) is an alien who is illegally or unlawfully in the United States;

(ix) has been dishonorably discharged from the armed forces; or

(x) has renounced his citizenship after having been a citizen of the United States.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under his custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under his custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who purchases, transfers, possesses, uses, or has under his custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned



by the person or a member of the person's household; or  
(b) otherwise authorized by law to possess the substance.

**76-10-504. Carrying concealed dangerous weapon -- Penalties.**

(1) Except as provided in Section **76-10-503** and in Subsections (2) and (3):

(a) a person who carries a concealed dangerous weapon, as defined in Section **76-10-501**, which is not a firearm on his person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in a place other than his residence, property, or business under his control is guilty of a class B misdemeanor; and

(b) a person without a valid concealed firearm permit who carries a concealed dangerous weapon which is a firearm and that contains no ammunition is guilty of a class B misdemeanor, but if the firearm contains ammunition the person is guilty of a class A misdemeanor.

(2) A person who carries concealed a sawed-off shotgun or a sawed-off rifle is guilty of a second degree felony.

(3) If the concealed firearm is used in the commission of a violent felony as defined in Section **76-3-203.5**, and the person is a party to the offense, the person is guilty of a second degree felony.

(4) Nothing in Subsection (1) shall prohibit a person engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23, Wildlife Resources Code, from carrying a concealed weapon or a concealed firearm with a barrel length of four inches or greater as long as the taking of wildlife does not occur:

(a) within the limits of a municipality in violation of that municipality's ordinances; or

(b) upon the highways of the state as defined in Section **41-6a-102**.

**76-10-505. Carrying loaded firearm in vehicle or on street.**

(1) Unless otherwise authorized by law, a person may not carry a loaded firearm:

(a) in or on a vehicle;

(b) on any public street; or

(c) in a posted prohibited area.

(2) A violation of this section is a class B misdemeanor.

**76-10-505.5. Possession of a dangerous weapon, firearm, or sawed-off shotgun on or about school premises -- Penalties.**

(1) A person may not possess any dangerous weapon, firearm, or sawed-off shotgun, as those terms are defined in Section **76-10-501**, at a place that the person knows, or has reasonable cause to believe, is on or about school premises as defined in Subsection **76-3-203.2(1)**.

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

(b) Possession of a firearm or sawed-off shotgun on or about school premises is a class A misdemeanor.

(3) This section does not apply if:

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

(b) the possession is approved by the responsible school administrator;

(c) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the person responsible for its possession or use; or





- (d) the possession is:
  - (i) at the person's place of residence or on the person's property;
  - (ii) in any vehicle lawfully under the person's control, other than a vehicle owned by the school or used by the school to transport students; or
  - (iii) at the person's place of business which is not located in the areas described in Subsection **76-3-203.2(1)(a)(i), (ii), or (iv)**.

(4) This section does not prohibit prosecution of a more serious weapons offense that may occur on or about school premises.

**76-10-506. Threatening with or using dangerous weapon in fight or quarrel.**

Every person, except those persons described in Section **76-10-503**, who, not in necessary self defense in the presence of two or more persons, draws or exhibits any dangerous weapon in an angry and threatening manner or unlawfully uses the same in any fight or quarrel is guilty of a class A misdemeanor.

**76-10-507. Possession of deadly weapon with intent to assault.**

Every person having upon his person any dangerous weapon with intent to unlawfully assault another is guilty of a class A misdemeanor.

**76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of any person, building, or vehicle -- Penalties.**

- (1) (a) A person may not discharge any kind of dangerous weapon or firearm:
  - (i) from an automobile or other vehicle;
  - (ii) from, upon, or across any highway;
  - (iii) at any road signs placed upon any highways of the state;
  - (iv) at any communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;
  - (v) at railroad equipment or facilities including any sign or signal;
  - (vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or
  - (vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:
    - (A) a house, dwelling, or any other building; or
    - (B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It shall be a defense to any charge for violating this section that the person being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of this section is a class B misdemeanor unless the actor discharges a firearm under any of the following circumstances not amounting to criminal homicide or attempted criminal homicide, in which case it is a third degree felony and the convicted person shall be sentenced to an enhanced minimum term of three years in prison:

(a) the actor discharges a firearm in the direction of any person or persons, knowing or having reason to believe that any person may be endangered;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Subsection **76-6-101(2)**, discharges a firearm in the direction of any building; or



(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(3) The court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Section **53-3-220(1)(a)(xi)**; and

(b) specify in court at the time of sentencing the length of the revocation under Subsection **53-3-225(1)(c)**.

(4) This section does not apply to a person:

(a) who discharges any kind of firearm when that person is in lawful defense of self or others; or

(b) who is performing official duties as provided in Sections **23-20-1.5** and **76-10-523** and as otherwise provided by law.

**76-10-509. Possession of dangerous weapon by minor.**

(1) A minor under 18 years of age may not possess a dangerous weapon unless he:

(a) has the permission of his parent or guardian to have the weapon; or

(b) is accompanied by a parent or guardian while he has the weapon in his possession.

(2) Any minor under 14 years of age in possession of a dangerous weapon shall be accompanied by a responsible adult.

(3) Any person who violates this section is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

**76-10-509.4. Prohibition of possession of certain weapons by minors.**

(1) A minor under 18 years of age may not possess a handgun.

(2) Except as provided by federal law, a minor under 18 years of age may not possess the following:

(a) a sawed-off rifle or sawed-off shotgun; or

(b) a fully automatic weapon.

(3) Any person who violates Subsection (1) is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(4) Any person who violates Subsection (2) is guilty of a third degree felony.

**6-10-509.5. Penalties for providing certain weapons to a minor.**

(1) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of Section **76-10-509.4** is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(2) Any person who transfers in violation of applicable state or federal law a sawed-off rifle, sawed-off shotgun, or fully automatic weapon to a minor is guilty of a third degree felony.

**76-10-509.6. Parent or guardian providing firearm to violent minor.**

(1) A parent or guardian may not intentionally or knowingly provide a firearm to, or permit the possession of a firearm by, any minor who has been convicted of a violent



felony as defined in Section **76-3-203.5** or any minor who has been adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.

- (2) Any person who violates this section is guilty of:
  - (a) a class A misdemeanor upon the first offense; and
  - (b) a third degree felony for each subsequent offense.

**76-10-509.7. Parent or guardian knowing of minor's possession of dangerous weapon.**

Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section **76-10-509** or a firearm in violation of Section **76-10-509.4** and fails to make reasonable efforts to remove the firearm from the minor's possession is guilty of a class B misdemeanor.

**76-10-509.9. Sales of firearms to juveniles.**

- (1) A person may not sell any firearm to a minor under 18 years of age unless the minor is accompanied by a parent or guardian.
- (2) Any person who violates this section is guilty of a third degree felony.

Enacted by Chapter 13, 1993 Special Session 2

**76-10-511. Possession of loaded weapon at residence authorized.**

Except for persons described in Section **76-10-503**, a person may have a loaded firearm at his place of residence, including any temporary residence or camp.

**76-10-512. Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions.**

The provisions of Section **76-10-509** and Subsection **76-10-509.4(1)** regarding possession of handguns by minors shall not apply to any of the following:

- (1) Patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters.
- (2) Any person in attendance at a hunter's safety course or a firearms safety course.
- (3) Any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law.
- (4) Any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition.
- (5) Any minor under 18 years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law.
- (6) Any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting.



(7) Any person traveling to or from any activity described in Subsection (2), (3), (4), (5), or (6) with an unloaded firearm in his possession.

**76-10-520. Number or mark assigned to pistol or revolver by Department of Public Safety.**

The Department of Public Safety upon request may assign a distinguishing number or mark of identification to any pistol or revolver whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the Department of Public Safety has been destroyed or obliterated.

**76-10-521. Unlawful marking of pistol or revolver.**

(1) Any person who places or stamps on any pistol or revolver any number except one assigned to it by the Department of Public Safety is guilty of a class A misdemeanor.

(2) This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the Department of Public Safety, nor prevent any manufacturer from placing in the ordinary course of business the name of the make, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

**76-10-522. Alteration of number or mark on pistol or revolver.**

Any person who changes, alters, removes, or obliterates the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Public Safety, on any pistol or revolver, without first having secured written permission from the Department of Public Safety to make the change, alteration, or removal, is guilty of a class A misdemeanor.

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

(1) This part and Title 53, Chapter 5, Part 7, Concealed Weapon Act, do not apply to any of the following:

- (a) a United States marshal;
- (b) a federal official required to carry a firearm;
- (c) a peace officer of this or any other jurisdiction;
- (d) a law enforcement official as defined and qualified under Section **53-5-711**;
- (e) a judge as defined and qualified under Section **53-5-711**;
- (f) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise; or
- (g) a nonresident traveling in or through the state, provided that any firearm is:
  - (i) unloaded; and
  - (ii) securely encased as defined in Section **76-10-501**.

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

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



**76-10-523.5. Compliance with rules for secure facilities.**

Any person, including a person licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Weapons, shall comply with any rule established for secure facilities pursuant to Sections **53B-3-103**, **76-8-311.1**, **76-8-311.3**, and **78-7-6** and shall be subject to any penalty provided in those sections.

**76-10-524. Purchase of firearms pursuant to federal law.**

This part will allow purchases of firearms and ammunition pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

**76-10-525. Disposition of weapons after use for court purposes.**

All police departments and/or sheriff's departments which have in their possession a weapon after it has been used for court purposes shall determine the true owner of the weapon and return it to him; however, if unable to determine the true owner of the weapon, or if the true owner is the person committing the crime for which the weapon was used as evidence, the department shall confiscate it and it shall revert to that agency for their use and/or disposal as the head of the department determines.

**76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders.**

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

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

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

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

(b) The form shall contain the following information:

(i) the dealer identification number;

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

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

(iv) the Social Security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the form required by Subsection (4) to the division immediately upon its completion.

(b) No dealer shall sell or transfer any firearm to an individual until the dealer has provided the division with the information in Subsection (4) and has received approval from the division under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the division and shall receive approval or denial of the inquiry by telephone or other electronic means.

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

(a) review the criminal history files, including juvenile court records, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state



or federal law;

(b) inform the dealer that:

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

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

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

(d) provide a response to the requesting dealer during the call for a criminal

background, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the division, the division shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

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

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

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

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review his criminal history information and may challenge or amend the information as provided in Section **53-10-108**.

(11) The division shall make rules as provided in Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the division pursuant to this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) (i) All dealers shall collect a criminal history background check fee which is \$7.50.

(ii) This fee remains in effect until changed by the division through the process under Section **63-38-3.2**.

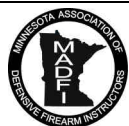
(b) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the division by the last day of the month following the sale of a firearm.

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

(13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter 5, Part 7, Concealed Weapon Act, shall be exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents his concealed firearm permit to the dealer prior to purchase of the firearm; and

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



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

(1) This section shall apply only to a handgun until federal law requires the background check in Section **76-10-526** to extend to other firearms at which time this section shall also apply to those firearms.

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

(a) requests, obtains, or seeks to obtain criminal history background information under false pretenses; or

(b) disseminates criminal history background information.

(3) A person who purchases or transfers a firearm is guilty of a felony of the third degree who willfully and intentionally makes a false statement of the information required for a criminal background check in Section **76-10-526**.

(4) A dealer is guilty of a felony of the third degree if the dealer willfully and intentionally sells or transfers a firearm in violation of this part.

(5) A person is guilty of a felony of the third degree who purchases a firearm with the intent to:

(a) resell or otherwise provide a firearm to any person who is ineligible to purchase or receive from a dealer a firearm; or

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

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

(1) Any person who carries a dangerous weapon while under the influence of alcohol or a controlled substance as defined in Section **58-37-2** is guilty of a class B misdemeanor. Under the influence means the same level of influence or blood or breath alcohol concentration as provided in Subsections **41-6a-502(1)(a)(i)** through (iii).

(2) It is not a defense to prosecution under this section that the person:

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

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

**76-10-529. Possession of dangerous weapons, firearms, or explosives in airport secure areas prohibited -- Penalty.**

(1) As used in this section:

(a) "Airport authority" has the same meaning as defined in Section **72-10-102**.

(b) "Dangerous weapon" is the same as defined in Section **76-10-501**.

(c) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section **76-10-306**.

(d) "Firearm" is the same as defined in Section **76-10-501**.

(2) (a) Within a secure area of an airport established pursuant to this section, a person, including a person licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Weapon Act, is guilty of:

(i) a class A misdemeanor if the person knowingly or intentionally possesses any dangerous weapon or firearm;

(ii) an infraction if the person recklessly or with criminal negligence possesses any dangerous weapon or firearm; or

(iii) a violation of Section **76-10-306** if the person transports, possesses, distributes, or sells any explosive, chemical, or incendiary device.

(b) Subsection (2)(a) does not apply to:

(i) persons exempted under Section **76-10-523**; and



(ii) members of the state or federal military forces while engaged in the performance of their official duties.

(3) An airport authority, county, or municipality regulating the airport may:

(a) establish any secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or any other device, to detect dangerous weapons, firearms, or explosives concealed in baggage or upon the person of any individual attempting to enter the secure area.

(4) At least one notice shall be prominently displayed at each entrance to a secure area in which a dangerous weapon, firearm, or explosive is restricted.

(5) Upon the discovery of any dangerous weapon, firearm, or explosive, the airport authority, county, or municipality, the employees, or other personnel administering the secure area may:

(a) require the individual to deliver the item to the air freight office or airline ticket counter;

(b) require the individual to exit the secure area; or

(c) obtain possession or retain custody of the item until it is transferred to law enforcement officers.

**76-10-530. Trespass with a firearm in a house of worship or private residence -- Notice -- Penalty.**

(1) A person, including a person licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Weapon Act, after notice has been given as provided in Subsection (2) that firearms are prohibited, may not knowingly and intentionally:

(a) transport a firearm into:

(i) a house of worship; or

(ii) a private residence; or

(b) while in possession of a firearm, enter or remain in:

(i) a house of worship; or

(ii) a private residence.

(2) Notice that firearms are prohibited may be given by:

(a) personal communication to the actor by:

(i) the church or organization operating the house of worship;

(ii) the owner, lessee, or person with lawful right of possession of the private residence; or

(iii) a person with authority to act for the person or entity in Subsections (2)(a)(i) and (ii);

(b) posting of signs reasonably likely to come to the attention of persons entering the house of worship or private residence;

(c) announcement, by a person with authority to act for the church or organization operating the house of worship, in a regular congregational meeting in the house of worship;

(d) publication in a bulletin, newsletter, worship program, or similar document generally circulated or available to the members of the congregation regularly meeting in the house of worship; or

(e) publication in a newspaper of general circulation in the county in which the house of worship is located or the church or organization operating the house of worship has its





principal office in this state.

(3) A church or organization operating a house of worship and giving notice that firearms are prohibited may:

(a) revoke the notice, with or without supersedure, by giving further notice in any manner provided in Subsection (2); and

(b) provide or allow exceptions to the prohibition as the church or organization considers advisable.

(4) (a) (i) Within 30 days of giving or revoking any notice pursuant to Subsection (2)(c), (d), or (e), a church or organization operating a house of worship shall notify the division on a form and in a manner as the division shall prescribe.

(ii) The division shall post on its website a list of the churches and organizations operating houses of worship who have given notice under Subsection (4)(a)(i).

(b) Any notice given pursuant to Subsection (2)(c), (d), or (e) shall remain in effect until revoked or for a period of one year from the date the notice was originally given, whichever occurs first.

(5) Nothing in this section permits an owner who has granted the lawful right of possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm in the residence.

(6) A violation of this section is an infraction.



## Rule R722-300. Concealed Firearm Permit Rule.

As in effect on November 1, 2005

### **R722-300-1. Purpose.**

The purpose of this rule is to set forth the process whereby the Criminal Investigations and Technical Services Division administers the Concealed Weapons Act in accordance with Title 53, Chapter 5, Part 7.

### **R722-300-2. Authority.**

This rule is authorized by Subsection 53-5-704(17).

### **R722-300-3. Definitions.**

Terms used in this rule shall be defined as follows:

- A. "Affidavit" means a written statement made under oath before a notary public.
- B. "Approved firearms instructor" means a person approved by the Division who can certify that an applicant meets the general firearm familiarity requirement of Subsection 53-5-704(8)(a) and is an instructor who is certified pursuant to Section R724-4-14.
- C. "Board" means the Concealed Weapons Review Board referred to in Section 53-5-703.
- D. "Concealed" means that which is covered, hidden, or secreted in a manner that the public would not be aware of its presence and is readily accessible for immediate use.
- E. "Crime of violence" means any crime defined as such in Subsection 76-10-501(2)(b).
- F. "Division" means the Criminal Investigations and Technical Services Division of the Utah Department of Public Safety.
- G. "Domestic violence" means any of the crimes listed in Subsection 77-36-1(2) when committed by one co-habitant against another.
- H. "Equivalent experience with a firearm through participation in law enforcement" means experience showing that the applicant has within the last five years met the firearms requirement of his/her department as evidenced by verifiable documentation from his/her department.



I. "Equivalent experience with a firearm through participation in the military" means experience showing that the applicant has within the last five years successfully met the firearms requirements of his/her military organization as evidenced by verifiable documentation from his/her military organization, provided that such training meets the requirements of Subsection 53-5-704(8)(a).

J. "Equivalent experience with a firearm through participation in an organized shooting competition" means experience showing that the applicant has within the last five years competed in an organized shooting competition as evidenced by verifiable documentation from the organization sanctioning or conducting the organized shooting competition, provided the organized shooting competition meets the requirements of Subsection 53-5-704(8)(a).

K. "Felony" means any criminal conduct other than those crimes defined as misdemeanors or infractions by the statutes of this state. It also includes any criminal conduct that is punishable by more than one year in prison by a federal statute, or by the statute of some other state.

L. "Mitigating circumstances" means circumstances which reduce culpability for purposes of assessing good character.

M. "Moral turpitude" means a conviction for criminal conduct under the statutes of this state or any other jurisdiction involving any of the following offenses:

1. theft;
2. fraud;
3. tax evasion;
4. issuing bad checks;
5. robbery;
6. aggravated robbery;
7. bribery;
8. perjury;
9. extortion;
10. arson or aggravated arson;
11. criminal mischief;
12. falsifying government records;



13. forgery;
14. receiving stolen property;
15. firearms violations;
16. burglary or aggravated burglary;
17. vandalism;
18. kidnaping, aggravated kidnaping, or child kidnaping;
19. crimes involving unlawful sexual conduct as described in Title 76, Chapter 5, Part 4, Chapter 5a, Chapter 7, Part 1, and Chapter 10, Part 13; and
20. violations of the pornographic and harmful materials and performances act, as defined in Title 76, Chapter 10, Part 12.

N. "Offenses involving the use of alcohol" means any of the following offenses:

1. any violation of Sections 41-6-44 through 41-6-44.20;
2. violations of Title 32A, Chapter 12, Part 2 involving the illegal use or consumption of an alcoholic beverage; and
3. a violation of 76-10-528.

O. "Offenses involving the use of narcotics" means any offense involving the use, possession, manufacturing or distribution of any narcotic or drug as defined in Title 58, Chapter 37, 37a, 37b, 37c, 37d, and 37e or a violation of 76-10-528.

P. "Past pattern of behavior" means verifiable incidents, with or without an arrest or conviction, that would lead a reasonable person to believe that an individual has a violent nature and would be a danger to themselves or others.

#### **R722-300-4. Application For a Concealed Firearm Permit.**

A. Application for a permit to carry a concealed firearm shall be made in writing to the Division on forms provided by the Division. An application package shall include:

1. a completed application form;
2. proof that the applicant is 21 years of age or older at the time application is made;
3. evidence of general familiarity with the types of firearms to be concealed, verified by a signed certificate from an approved firearms instructor;



4. a five-year employment history;
5. a five-year residential history;
6. two letters of character reference;
7. two recent color photographs of passport quality, measuring 2"x 2"; and
8. two completed fingerprint cards.

B. An applicant shall pay a non-refundable processing fee of \$59.00 at the time the application is filed. This fee consists of \$35.00 mandated by Section 53-5-707 and a \$24.00 Federal Bureau of Investigation finger print processing fee. Payment shall be in the form of cash, cashier's check, or money order. The Division is not responsible for cash lost in the mail.

C. An applicant may request an interview prior to submitting the application. The Division may require an interview subsequent to the submission of the application.

D. A background investigation shall be conducted on all applicants to determine if they are of good character as required by Section 53-5-704. The background investigation shall consist of:

1. verifying the accuracy of the application information;
2. checking the applicant's criminal history through local, state and national computer files which include:
  - a. Utah computerized criminal history;
  - b. national crime information center;
  - c. Utah law enforcement information network;
  - d. drivers license information;
  - e. statewide warrants file;
  - f. criminal justice juvenile files;
  - g. criminal history expungement system; and
  - h. national instant check system (when available).
3. The fingerprint cards will be sent to the FBI for a review of the applicant's criminal history record pursuant to Sections 53-5-704 and 706.



E. The Division will review all the above information and approve or deny the application.

1. Notice of approval may be given by telephone or in writing.
2. Notice of denial shall be given in writing and shall state the reasons for denial.

F. Renewal of a permit to carry a concealed firearm is required every two years.

1. The renewal form is available from the Division.
2. A renewal applicant shall pay a non-refundable fee of \$5.00 as required by Section 53-5-707. Payment shall be made in the form of cash, cashier's check or money order. The Division is not responsible for cash lost in the mail.

G. A peace officer who has honorably retired from full-time employment within five years of making application shall be exempt from the following requirements:

1. two letters of character reference; and
2. two sets of fingerprints.

### **R722-300-5. Temporary Concealed Firearm Permit.**

A. To be eligible to obtain a temporary permit to carry a concealed firearm, as provided for in Section 53-5-705, an applicant must:

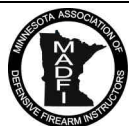
1. apply for a permit under Section 53-5-704;
2. apply for a temporary permit under Section 53-5-705;
3. demonstrate good character; and
4. prove to the satisfaction of the Division extenuating circumstances justifying the need for a temporary permit.

B. Provisions regarding denial, suspension or revocation of a temporary permit are set forth in Subsection R724-4-18(F).

### **R722-300-6. Out-of-State Concealed Firearm Permit Applicants.**

Out-of-state applicants for a concealed firearm permit will be subject to the same application process as in-state applicants.

### **R722-300-7. Out of State Concealed Firearm Permits.**



A. In accordance with Subsection 76-10-523(2)(b) the Division will conduct research annually to determine which states have requirements for the issuance of a concealed firearm permit that meet or exceed the requirements for issuance of a concealed firearm permit in this state.

B. A list of the out of state permits that will be honored in this state will be maintained by the Division. The list will be available to the public upon request.

### **R722-300-8. Application for a Certificate of Qualification.**

A. Application for a certificate of qualification shall be made in writing to the Division on forms provided by the Division and will be subject to the same application requirements as concealed firearm permit applicants set forth in Section R724-4-4. The applicant must also provide proof to the satisfaction of the Division that they are a law enforcement official or judge as defined in Section 53-5-711.

B. A certificate of qualification will act as identification to verify that the holder is exempt from weapons laws in accordance with Section 76-10-523.

### **R722-300-9. Additional Training Requirements for Obtaining a Certificate of Qualification.**

Training requirements for obtaining a certificate of qualification, as set forth in Subsection 53-5-711(2)(b), will be established by the commissioner. A copy of the training requirements will be available in the Division office upon request. The commissioner may make changes or additions to the training requirements as needed. It is the responsibility of the applicant to acquire the training through their agency.

### **R722-300-10. Annual Requalification Requirement for Obtaining a Certificate of Qualification.**

Proof of annual requalification must be submitted to the Division, in writing, no earlier than November 1 and no later than November 30 of each year. If an applicant has received an initial certificate of qualification after August 1, requalification will not be required until the following year. Failure to provide proof of annual requalification by November 30 of each year will result in revocation of the certificate of qualification.

### **R722-300-11. Duty of Certificate of Qualification Holder to Notify the Division Upon Termination of Status as a Law Enforcement Official or Judge.**

A certificate of qualification holder who resigns or is terminated from their position must notify the Division within six months after leaving their position. If the holder obtains other employment as a Law Enforcement Official or Judge within the six month period, the Division will allow the certificate of qualification to remain current provided the holder has not committed an offense that is grounds for revocation under Title 53 Chapter



5 Part 7. If a holder of a certificate of qualification has not obtained another position as a Law Enforcement Official or Judge, the certificate of qualification will be revoked and a concealed firearm permit will be issued provided the holder has not committed an offense that is grounds for revocation under Title 53 Chapter 5 Part 7.

### **R722-300-12. Denial, Suspension, or Revocation of a Concealed Firearm Permit or Certificate of Qualification.**

A concealed firearm permit or certificate of qualification may be denied, suspended or revoked for any of the reasons set forth in Subsections 53-5-704 (3)(a) and (c), or for failure to maintain good character as defined in Subsection 53-5-704(2).

### **R722-300-13. Requirement to Notify Peace Officer When Stopped.**

When a concealed firearm permit holder or certificate of qualification holder is stopped for questioning by a peace officer based on reasonable suspicion in accordance with Section 77-7-15 and the holder has a concealed firearm in his/her possession, the holder shall immediately advise the peace officer that he/she is a lawful holder and has a concealed firearm in his/her possession.

### **R722-300-14. Concealed Firearm Permit Instructors.**

A. The Division will certify concealed firearm permit instructors as provided for in Subsection 53-5- 704(8)(b)(ii).

B. Application to become a concealed firearm permit instructor shall be made in writing to the Division on forms provided by the Division. The application shall include:

1. a completed application form;
2. evidence that the applicant has completed a firearms instructor training program sponsored by the National Rifle Association, or Peace Officer Standards and Training, or a program equivalent thereto; and
3. a notarized release of information form.

C. A concealed firearm permit instructor applicant shall pay a non-refundable fee of \$5.00. Payment shall be made in the form of cash, cashier's check or money order. The Division is not responsible for cash lost in the mail.

D. The applicant must submit with the application a copy of a course of instruction that meets the course content requirements established by the Division as required by Subsection 53-5-704(8)(a).

E. The applicant must meet the good character requirements set forth in Subsections 53-5-704(2)(a) through (h).





### **R722-300-15. Certificate of Qualification Instructors.**

A. The Division will certify certificate of qualification instructors as provided for in Subsection 53-5-711(4)(c). An applicant for a certificate of qualification instructor shall:

1. be certified as a firearms instructor by Peace Officer Standards and Training;
2. make a written request to the Division for approval;
3. meet the good character requirements set forth in Subsections 53-5-704(2)(a) through(h); and
4. demonstrate to the satisfaction of the Division that their approval would provide a benefit to the training program.

B. The number of certificate of qualification instructors approved by the Division will be limited to the needs of the program.

### **R722-300-16. Denial, Suspension, or Revocation of Approval as a Concealed Firearm Permit Instructor or Certificate of Qualification Instructor.**

Approval as a concealed firearm permit instructor or certificate of qualification instructor may be denied, suspended or revoked for any of the following reasons:

1. failing to meet the requirements of Sections R724-4-14 or 15;
2. failing to teach from an approved course of instruction;
3. failing to maintain records verifying that an applicant has passed a required course of instruction; or
4. knowingly and wilfully providing false information to the Division.

### **R722-300-17. Records Access.**

A. The purpose of this section is to define access to concealed firearm permit and certificate of qualification records in accordance with Title 63, Chapter 2, and Subsection 53-5-708(1).

B. Except as provided in Subsection 53-5-708(1), information supplied to the Division by an applicant shall be considered "private" in accordance with Subsection 63-2-302(2)(d).

C. Information gathered by the Division and placed in the applicant's file shall be considered "protected" in accordance with Subsections 63-2-304(8)and(9). However, if such information is used as the basis for denial of a concealed firearm permit or certificate of qualification, such information shall be considered "private" in accordance



with Subsection 63-2-302(2)(d) and the applicant shall have access to it in accordance with Subsection 53-5-704(16)(c).

### **R722-300-18. Adjudicative Procedures.**

A. Any applicant denied a concealed firearm permit or certificate of qualification may request a hearing before the board by filing an appeal to the Division within 60 days from the date the notice of denial is issued. This appeal process also applies to a concealed firearm permit holder or certificate of qualification holder whose concealed firearm permit or certificate of qualification has been suspended or revoked.

B. Board hearings will be conducted informally in accordance with Section 63-46b-5.

C. Board decisions shall be issued within 30 days from the date of the hearing in accordance with Subsection 53-5-704(16)(e) and shall comply with the requirements of Subsection 63-46b-5(1)(i).

D. In accordance with Section 63-46b-11 the board may enter a default order against any party who fails to participate in a hearing.

E. Judicial review of all final actions resulting from informal adjudicative proceedings is available pursuant to Section 63-46b-15.

F. Denial, suspension, or revocation of a temporary permit is not appealable to the board.

G. A concealed firearm permit instructor or certificate of qualification instructor has the same appeal rights as set forth in this section for concealed firearm permit holders and certificate of qualification holders.

