



## STATE OF UTAH

### DEPARTMENT OF PUBLIC SAFETY

#### BUREAU OF CRIMINAL IDENTIFICATION

### MINIMUM TRAINING CURRICULUM FOR CONCEALED FIREARM COURSES

#### INTRODUCTION:

The Bureau of Criminal Identification is responsible for ensuring that all concealed firearm permit applicants receive proper training according to Utah Code Annotated § 53-5-704. The Bureau will issue, certify, and regulate all concealed firearm permit holders and instructors. It is the responsibility of every concealed firearm permit holder to learn safe handgun practices and have a practical knowledge of the laws that govern firearms and the use of force. Permit holders also need to understand their personal abilities and limitations.

As a concealed firearm instructor you must make certain that all applicants who attend your course receive proper in-person training within the guidelines prescribed by law. The Bureau has collected the following information to assist you in preparing or adding to your course outline. Please note that you may use this outline as your own by simply signing the last page and submitting it to the Bureau. The curriculum within is the minimum training required by the Bureau. The Bureau supports instructors adding any additional firearm training and material, including a live fire exercise. If there are any questions, do not hesitate to contact the Bureau of Criminal Identification at 801-965-4445.

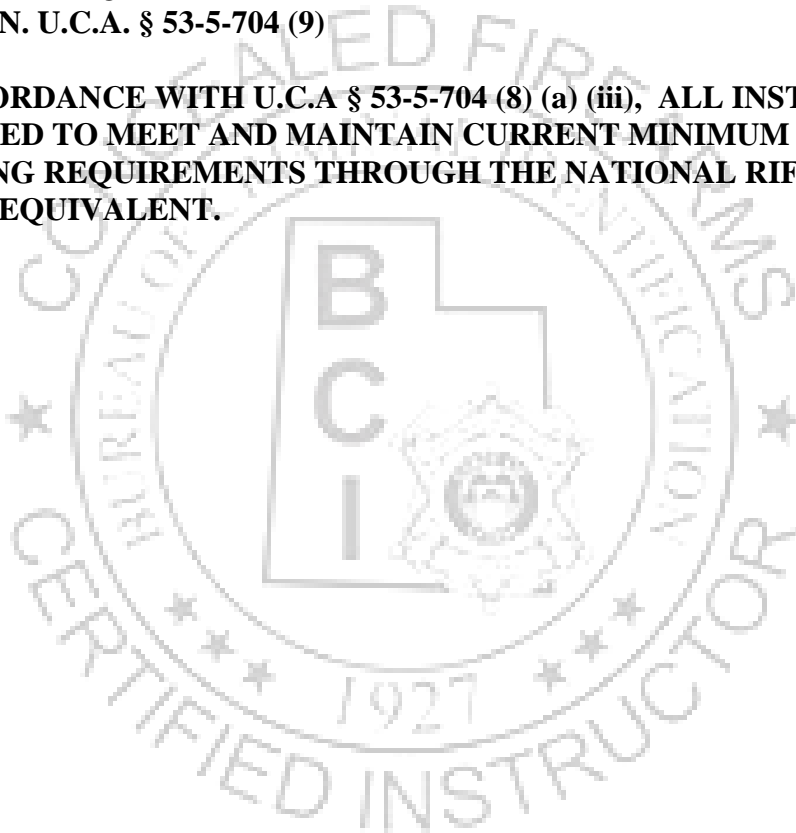
#### **THE GOAL IS TO ELIMINATE INCIDENTS BY PROVIDING EXCELLENT TRAINING!**

To properly teach the minimum training standard, in person instruction consisting of a minimum of 4 hours is recommended. This time frame should consist of course related material not to include extra services such as fingerprinting, photos, etc. If a certified instructor chooses to teach multi state permits (i.e., Florida, etc.) the Utah permit must be completed first. This policy ensures the Utah concealed firearm permit course is taught in its entirety without intermixing different states interpretation of the laws and rules governed within. Please follow these statutory guidelines as you instruct!

- **ALL APPLICANTS MUST COMPLETE GENERAL FAMILIARITY INSTRUCTION WITH THE TYPES OF FIREARMS TO BE CONCEALED. GENERAL FAMILIARITY INCLUDES TRAINING IN THE FOLLOWING: U.C.A. § 53-5-704(7) (a) i and ii**
  1. **THE SAFE LOADING, UNLOADING, STORAGE, AND CARRYING OF THE TYPES OF FIREARMS TO BE CONCEALED; AND**

**2. CURRENT LAWS DEFINING LAWFUL SELF-DEFENSE, USE OF FORCE BY PRIVATE CITIZENS, INCLUDING USE OF DEADLY FORCE, TRANSPORTATION, AND CONCEALMENT.**

- **ALL INSTRUCTION FOR A UTAH CONCEALED FIREARM PERMIT SHALL BE IN PERSON AND NOT THROUGH ELECTRONIC MEANS. U.C.A. § 53-5-704 (7) (c).**
- **THE FOLLOWING OUTLINE PROVIDES THE MINIMUM TRAINING REQUIRED FOR CONCEALED FIREARM COURSES. ALL CONCEALED FIREARMS INSTRUCTORS SHALL PROVIDE EACH OF THE INSTRUCTOR'S STUDENTS WITH THE REQUIRED COURSE OF INSTRUCTION OUTLINE APPROVED BY THE DIVISION. U.C.A. § 53-5-704 (9)**
- **IN ACCORDANCE WITH U.C.A § 53-5-704 (8) (a) (iii), ALL INSTRUCTORS ARE REQUIRED TO MEET AND MAINTAIN CURRENT MINIMUM PREREQUISITE TRAINING REQUIREMENTS THROUGH THE NATIONAL RIFLE ASSOCIATION OR IT'S EQUIVALENT.**



## SECTION 1

### **BASIC HANDGUN SAFETY TRAINING**

#### **I. HANDGUN SAFETY RULES**

##### **A. THE PRIMARY CAUSES OF FIREARM RELATED ACCIDENTS:**

1. Ignorance
2. Carelessness

##### **B. ELEMENTS OF FIREARM SAFETY:**

1. Positive Attitude
2. Knowledge
3. Skill

##### **C. FOUR BASIC GUN SAFETY RULES:**

1. Treat all firearms as if they are loaded.
2. Always keep your finger off the trigger until your sights are on target and you have made the decision to fire.
3. Never point a firearm at anything you are not willing to destroy.
4. Before the decision to fire, be sure of your target, your target's environment and any other safety hazards.

##### **D. OTHER SAFETY RULES / RANGE SAFETY RULES:**

1. Know your target and what is beyond.
2. Know how to use the firearm safely.
3. Be sure the firearm is safe to operate (demonstrate safety check).
4. Use only the correct ammunition for your firearm.
5. Wear eye and ear protection as appropriate.
6. **Never** use alcohol or drugs before or while shooting.
7. Store all firearms so they are not accessible to unauthorized persons, i.e. children, restricted persons, etc.
8. Never handle a handgun in an emotional state such as anger or depression.
9. Keep the firearm unloaded until ready for use.

**E. OTHER SAFETY CONSIDERATIONS**

1. Be a knowledgeable gun handler and user.
2. Before starting to clean a gun, be certain it is not loaded.
3. Cleaning a gun also provides an opportunity to check the proper function of the gun.
4. Always be sure the gun barrel is free from obstructions.
5. When handing a pistol to another person, always be sure that the muzzle is pointed in a safe direction, your finger is off the trigger, the action is open, magazine has been removed and all chambers are empty.
6. Carry only one type of ammunition to avoid mixing different types.
7. If in possession of an old or antique firearm, or gun that is a military souvenir, be sure that it is unloaded.
8. Never fire at surfaces that can cause a bullet to ricochet, such as water, or hard flat objects.
9. If a cartridge fails to fire when the trigger is pulled, keep the muzzle pointed in safe direction; don't attempt to open the action to remove the cartridge for at least 30 seconds.
10. If anything unusual is noticed when a shot is fired, such as a difference in recoil or in noise, immediately do the following:
  - a. Stop firing immediately;
  - b. Keep the muzzle pointed in a safe direction;
  - c. Keep your finger off the trigger;
  - d. Unload the gun and check to be sure the chamber is empty; and
  - e. Visually inspect the barrel for obstructions.

**F. PERMIT HOLDERS ARE RESPONSIBLE FOR TEACHING THEIR CHILDREN AND OTHER OCCUPANTS IN THEIR HOME ABOUT FIREARM SAFETY:**

1. The permit holder should be a positive role model for their children.
2. Children should be taught the difference between television, toys and real life.
3. Children should be taught what to do if they come across a firearm without an adult present:
  - a. Stop
  - b. Don't Touch
  - c. Leave the area
  - d. Tell a responsible adult

## II. HANDGUN PARTS AND OPERATION (Revolver and Semi-automatic)

A. **FRAME** – The frame of the revolver and semi-automatic is the backbone to which all other parts are attached:

- a. Grip Panels – Grip portion of the frame
- b. Backstrap – Rear vertical portion of frame
- c. Trigger Guard – Trigger protection to reduce unintentional firing
- d. Front and Rear Sights - Aiming

B. **BARREL** – The barrel is a metal tube through which a bullet passes on its way to a target.

1. Bore – Inside of the Barrel
2. Riflings – Combination of lands and groove which adds flight stability, accuracy, and distance to bullet
3. Caliber – The distance between the lands

C. **ACTION**- Group of moving parts used to load, fire and unload the pistol (Revolver and Semi-automatic)

### 1. **Revolver actions**

- a. **Trigger** – When the trigger is pulled, it activates the hammer, which in turn causes the firing pin to strike and fire the cartridge.
- b. **Cylinder** – Holds cartridges in individual chambers arranged in a circular pattern. Each time the hammer moves to the rear, the cylinder turns and brings a new chamber in line with the barrel and the firing pin.
- c. **Cylinder Release latch** - Releases the cylinder and allows it to swing out so that cartridges can be loaded and unloaded.
- d. **Two types of revolver actions**
  1. **Single Action** – Trigger performs only one action. Releases the hammer firing the pistol.
  2. **Double Action** – Trigger performs two tasks. Cocks and releases the hammer, firing the pistol.

### 2. **Semi-Automatic actions**

- a. **Slide** – Upon initial loading of all semi-automatics, the first cartridge must always be manually cycled into the firing chamber by retracting the slide and then releasing it. As the slide returns to the closed position, it removes a cartridge from the top of the magazine and inserts it into the chamber.
- b. **Magazine** – The magazine is a storage device designed to hold cartridges ready for insertion into the chamber.
- c. **Magazine release** – A device that releases the magazine so that it can be removed from the pistol
- d. **Trigger** – When the trigger is pulled, it activates the hammer (or the internal firing mechanism) which when released, causes the firing pin to strike and fire the cartridge. The slide moves to the rear ejecting the empty cartridge case and usually cocking the pistol in the process. The cartridges in the magazine are forced upward by the magazine spring into path of the slide. When the slide, (under pressure from a recoil spring or slide spring to return to a closed position) moves forward, it picks up and pushes the top cartridge into the chamber.
- e. **Three types of semi-auto actions**
1. **Single Action** – The trigger performs a single task, releasing the external hammer or the internal firing mechanism so that the firing pin hits the cartridge.
  2. **Double/Single Action** – The trigger performs two tasks. It cocks the external hammer or the internal firing mechanism for the first shot, and also releases the external hammer or the internal firing mechanism. After the first shot is fired, the movement of the slide on ejection of the spent cartridge will cock the external hammer or internal firing mechanism. With these mechanisms cocked, all successive shots will be single action.
  3. **Double Action Only** – The trigger will cock and release the external hammer or internal firing mechanism on the first shot and all successive shots.

- D. **SHOW HOW TO CHECK BOTH REVOLVER AND SEMI-AUTOMATIC TO ENSURE PROPER FUNCTION OF THE FIRING MECHANISM AND SAFETY.**
- E. **EXPLAIN AND DEMONSTRATE SAFE LOADING, COCKING, UNCOCKING, AND UNLOADING PROCEDURES FOR BOTH REVOLVERS AND SEMI-AUTOMATIC HANDGUNS.**
- F. **FAMILIARIZE YOURSELF WITH THE MANUFACTURER'S OPERATING MANUAL.**
- G. **KNOW AND BE FAMILIAR WITH CYLINDER ROTATION DIRECTION OF REVOLVERS.**

### III. AMMUNITION

#### A. **TYPES OF CARTRIDGES:**

1. Center-fire
2. Rim-fire

#### B. **COMPONENTS OF A CARTRIDGE:**

1. **Case** – Metal cylinder (usually made of brass) that is closed on one end and contains other components such as primer, powder, bullet.
2. **Primer** – An impact sensitive chemical compound used for ignition.
  - a. **Rimfire** – The primer is contained in the inside rim of the case's base.
  - b. **Centerfire** – The primer is contained in a small metal cup, and is located in the center of the case's base.
3. **Powder Charge** – A fast burning chemical compound used as a propellant, and is contained inside the body of the case.
4. **Bullet** – A projectile, usually made of lead and sometimes covered with a layer of copper or other metal, and is located at the mouth of the case.
5. **Wad (shotgun only)** – Plastic cup inside a shotgun cartridge used to contain the shot or projectiles for use in a shotgun.

#### C. **CARTRIDGE FIRING SEQUENCE:**

1. Pulling the trigger of the pistol will cause the firing pin to hit and ignite the primer.
2. The flame generated by the primer ignites the powder in the cartridge.
3. The powder burns very rapidly and produces a high volume of gas.
4. These expanding gases push the bullet out of the cartridge case and propel it out of the pistol barrel at a high rate of speed, 800 – 4000 FPS.

**D. AMMUNITION SAFETY AND GENERAL GUIDELINES:**

1. Inspect ammunition for safety flaws and imperfections.
2. Understand range capabilities of ammunition.
  - a. Review safety rule #4; be sure of your target, your target's environment, the background and beyond.  
Discuss dangerous capabilities of handgun ammunition.
3. Be sure to use the proper caliber ammunition with gun to be fired. Explain the difference between 9mm parabellum and 9mm Kurtz (.380).
4. Explain considerations between defensive and practice ammunition.

**a. Defensive (Protection) Ammunition**

1. **Reliability** – The ability of a firearm to consistently chamber, fire, extract, and eject a particular load without malfunctions.
2. **Controllability** – The ability to fire multiple rounds and still manage recoil and maintain accuracy.
3. **Stopping Power** – The ability of a cartridge to quickly incapacitate an assailant or otherwise cause an assailant to stop his attack.
4. **Accuracy** – Ability of the gun and ammunition combination to shoot to the point of aim indicated by the sights.
5. **Muzzle Flash** – When in excess will impair night vision and illuminate your position.
6. **Hollow-points** - They open up and expand in diameter upon impact. This more efficiently transfers energy and also prevents over penetration or complete penetration that could endanger the lives of others.

**b. Practice Ammunition**

1. **Non-expanding type** – Typically full metal jacket, Involves greater penetration of target
2. **Reduced powder charge** – More manageable recoil
3. **Reduced costs**

**E. CARE AND STORAGE OF AMMUNITION:**

1. Always keep ammunition in factory box or container that can be properly labeled.
2. Store ammunition in a cool dry place free from extreme temperature variation.
3. Store ammunition separately from guns and not accessible from unauthorized persons, especially children.
4. Keep ammunition from acids, salts, and other chemicals that can cause corrosion.
5. Never submerge in water or expose to any solvents, petroleum products, bore cleaner, ammonia or other chemicals. These chemicals can penetrate the cartridge and cause the primer or the powder to deteriorate.
6. Explain the importance of rotating defensive (protection) ammunition stored for long periods of time in your handgun.

**F. AMMUNITION MALFUNCTIONS:**

1. **Misfire** – Failure of the cartridge to fire after the primer has been struck by the firing pin.
2. **Hangfire** – A perceptible delay in the ignition of a cartridge after the primer has been struck by the firing pin.
3. **Squib load** – Development of less than normal pressure or velocity after ignition of the cartridge. Unusual difference in recoil or noise
4. **Malfunction resolutions:**
  - a. **Misfire and Hangfire** – Keep the pistol pointed in a safe direction—a hangfire might exist and the cartridge could still fire. Don't attempt to open the action of the pistol to remove the cartridge for at least 30 seconds.
  - b. **Squib Load** – Keep the muzzle pointed in a safe direction, wait 30 seconds and then unload the gun. Check to make sure the chamber is empty and the barrel is free from obstructions.

**IV. FUNDAMENTALS OF SHOOTING A HANDGUN “DEMONSTRATE”**

**A. BASIC TWO HANDED SHOOTING POSITIONS: (EXPLAIN AND DEMONSTRATE)**

**1. Isosceles stance**

- This position is so named because in this position your extended arms when seen from above resemble an isosceles triangle.
- Feet are placed shoulder width apart.
- Feet and shoulders are square to the target.
- Knees are slightly bent with weight slightly forwards on the balls of the feet.
- Two-handed grip of the gun with the arms extended forward and the elbows slightly bent.
- The head is erect, not hunched and shoulders are at normal height.
- The firearm is lifted to the level of the eyes for aiming.
- This is a more instinctive and natural position for most shooters.

**2. Weaver stance**

- Named for former San Diego County Sheriff Jack Weaver.
- Feet are positioned in a boxer stance with the strong foot rearward.
- The weak shoulder is angled toward the target.
- The knees are flexed and the body weight is carried slightly forward, on the balls of the feet.
- The elbows are bent downward to bring the gun closer to the body than the isosceles.
- The head is tipped slightly to view the sights.
- An isometric action is employed between the strong and weak arm for stability.
- The recoil is absorbed through the bent elbows and isometric pushing and pulling between strong and support hand.

**3 Modified Isosceles stance – This position incorporates the natural, fully-extended arm position of the isosceles position with the stability of the asymmetrical boxer's stance foot placement of the Weaver position.**

- Allows better recoil absorption.
- The head is level and the body leans forward.

**B. BASIC FUNDAMENTALS: (EXPLAIN AND DEMONSTRATE)**

**1. Hand Grip – Operate the weapon repeatedly without changing grip.**

2. **Body Position** – Least amount of body and weapon movement
3. **Breath Control** – Control breathing to minimize body and firearm movement.
4. **Sight Alignment** – The relationship of the eye in alignment with the rear and front sight.
5. **Trigger Squeeze** – The ability to apply increasing pressure on the trigger and allow the hammer to fall without disturbing sight alignment
6. **Follow Through** – Stabilizing recoil, maintaining grip and stance, regaining front sight focus, resetting the trigger and preparing for follow up shot if a threat persists.

## V. SAFE HANDLING

### A. DISCUSS RULES TO FOLLOW ON THE SHOOTING RANGE:

1. Fully comply with the range officer's instructions.
2. Follow the 4 safety rules at all times.
  - a. Treat all firearms as if they are loaded.
  - b. Always keep your finger off the trigger until your sights are on target and you have made the decision to fire.
  - c. Never point a firearm at anything you are not willing to destroy.
  - d. Before the decision to fire, be sure of your target, your target's environment and any other safety hazards.
3. Wear eye and ear protection at all times during practice shooting.
4. Explain and demonstrate the safe handling and presentation of a firearm to another person.
5. Explain and demonstrate the three range/combat positions for a firearm:
  - a. In the holster or carrying case
  - b. At the ready position
  - a. On target
6. Discuss and demonstrate the steps to follow if you have a malfunction.
  - a. **Failure to Fire** (Faulty Ammo, Magazine not fully seated, etc.)  
***Type 1 Malfunction.***

- b. **Failure to Eject** (Stove Pipe, Partial Ejection) *Type 2 Malfunction*
- c. **Feedway Stoppage** (Double Feed, Extractor gummed or broken guide rods, Extractor does not get a good grip on the spent cartridge, Chamber remains blocked) *Type 3 Malfunction*
- d. **Failure to go into battery** (Bad Chamber design, Weak guide spring, Extremely dirty guide rails or guide rod) *Type 4 Malfunction*
- e. **EXPLAIN MALFUNCTION RESOLUTIONS EMPLOYING TAP, INVERT, RACK, AND REASSESS.**

**B. EXPLAIN AND DEMONSTRATE SAFE LOADING, COCKING, UNCOCKING, AND UNLOADING PROCEDURES FOR BOTH REVOLVERS AND SEMI-AUTOMATIC HANDGUNS. (REVIEW)**

**C. DISCUSS AND DEMONSTRATE THE MAINTENANCE AND CLEANING OF HANDGUNS:**

- 1. The importance of regular cleaning and maintenance
- 2. Safety considerations when cleaning
- 3. Demonstrate how to clean a revolver / semi-automatic

**D. DISCUSS HOLSTERS, SAFE DRAW, PRESENTATION, AND HOLSTERING OF FIREARMS**

- 1. Purpose of a holster
- 2. Discuss advantages and disadvantages of the several holster types:
  - a. Safety
  - b. Accessibility
  - c. Security
  - d. Concealment
- 3. Advantages and disadvantages of the various methods of carry, i.e., on person, in case, etc.
- 4. Safety must come before any other consideration.

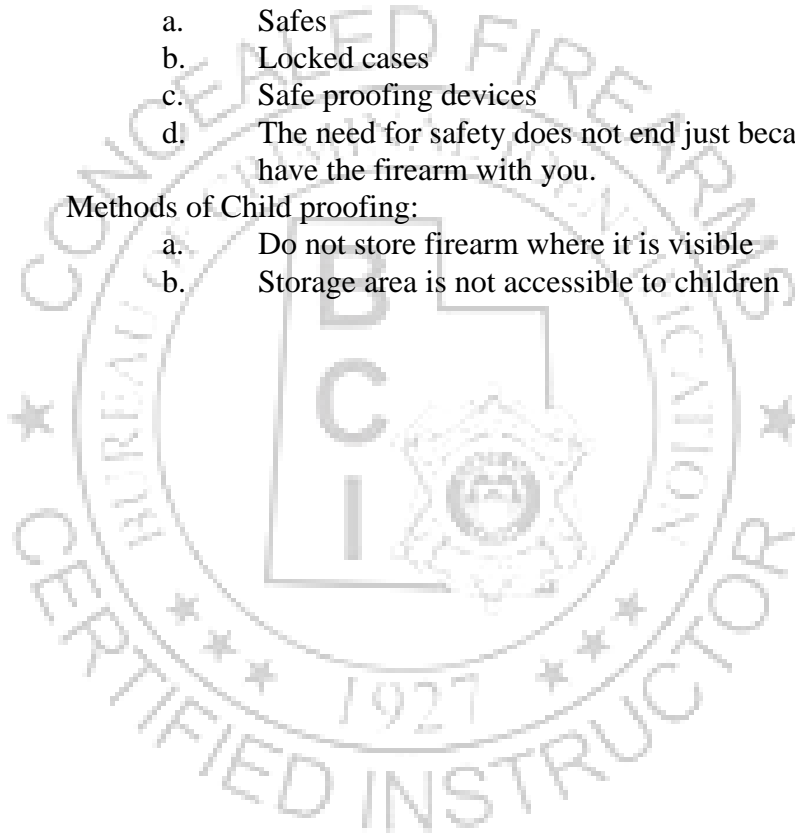
**F. SAFE CONCEALMENT CONSIDERATIONS:**

- 1. The firearm should be in a holster or gun case.

2. The firearm should be hidden from view and be placed so that it is only accessible to the individual carrying it.
3. A handgun should not just be thrown into a glove box, under the car seat or into a drawer.
4. The permit holder is responsible for their firearm at all times.

**G. SAFE STORAGE OF FIREARMS AND AMMUNITION:**

1. Firearms should be stored unloaded. (Storage is when the firearm is not available for immediate use.)
2. Recommend that firearms and ammunition are stored separately
3. Storage options:
  - a. Safes
  - b. Locked cases
  - c. Safe proofing devices
  - d. The need for safety does not end just because you do not have the firearm with you.
4. Methods of Child proofing:
  - a. Do not store firearm where it is visible
  - b. Storage area is not accessible to children



**SECTION 2**

**YOU MUST REVIEW ALL FEDERAL AND STATE CODES, RULES, AND REGULATIONS THAT PERTAIN TO FIREARMS, OR DEFINITIONS CONTAINED THEREIN.**

**I. UTAH CRIMINAL AND TRAFFIC CODE**

**A. Concealed Weapon Act:**

1. **53-5-702**, Definitions
2. **53-5-703**, Board Membership and Duties
3. **53-5-704**, Division Duties - Permit to Carry Concealed Firearms Requirements for Issuance – Violation - Denial, Suspension Revocation – Appeal Procedure
4. **53-5-705**, Temporary permit to carry concealed firearm
5. **53-5-707**, Permit Fees
6. **53-5-708**, Permit Name Privacy
7. **53-5-710**, Cross References to Concealed Firearm permit Restrictions

**B. Justification of Force:**

1. **76-2-401**, Justification as defense, when allowed
2. **76-2-402**, Force in Defense of Persons – Forcible Felonies Defined
3. **74-2-403**, Force in Arrest
4. **76-2-405**, Force in Defense of Habitation
5. **76-2-406**, Force in Defense of Property
6. **76-2-407**, Force in Defense of Persons on Real Property

**C. Rules of arrests, by whom and how made**

1. **77-7-1**, Arrest defined – Restraint allowed
2. **77-7-3**, Arrest by private persons

**D. Weapons in prohibited areas / circumstances:**

1. **53-5-710**, Cross References to Concealed Firearm Permit Restrictions
2. **76-8-311.1**, Secured Areas – Firearms Prohibited
3. **76-8-311.3**, Items prohibited in correctional and mental health facilities
4. **76-10-523**, Persons Exempt from Weapons Laws
5. **76-10-529**, Airports – Firearms Prohibited
6. **76-10-530**, Trespass with a firearm in a house of worship or private residence

**E. Weapons laws:**

1. **76-10-500**, Uniform Law
2. **76-10-506**, Threatening with or using dangerous weapon in a fight or quarrel (Brandishing)
3. **76-10-507**, Possession of a deadly weapon with intent to assault
4. **76-10-509**, 4, 5, 6, 7, 9, The sale, possession, providing weapons to a minors and penalties
5. **76-10-511**, Possession of a loaded firearm at residence authorized
6. **76-10-526**, Criminal Background check Prior to Purchasing a Firearm
7. **76-10-528**, Carrying under the influence of alcohol or a controlled substance

**F. Assault and Related Offenses:**

1. **76-5-102**, Assault
2. **76-5-103**, Aggravated Assault
3. **76-5-107**, Terroristic threat

**G. Weapons Laws, (Non-Concealed Permit Carrier):**

1. **76-10-502**, When weapon is deemed loaded
2. **76-10-503**, Persons not permitted to carry dangerous weapons (restricted persons)
3. **76-10-504**, Carrying concealed dangerous weapon
4. **76-10-505**, Loaded firearm in vehicle or on street
5. **76-10-505.5**, Possession of a dangerous weapon, firearm or sawed-off shotgun on or about school premises

**CONCEALED WEAPONS U.C.A. § 53-5-702 – 53-5-711**

**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 for five years, without restriction, except as otherwise provided by Section **53-5-710**.

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

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

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

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

- (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 **78A-6-209**.
- (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) Except as provided in Subsection (6), the licensing authority shall also require the

applicant to provide:

- (a) the address of the 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 (7).

(6) 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 evidence required by Subsection (5)(d).

(7) (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 a 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) Instruction taken by a student under Subsection (7)(b) shall be in person and not through electronic means.

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

(i) be at least 21 years of age;

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

(iii) have a current National Rifle Association certification or its equivalent as determined by the division; and

(iv) for certificates issued beginning July 1, 2006, have taken a course of instruction and passed a certification test as described in Subsection (8)(c).

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the division.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the division.

(ii) (A) Beginning May 1, 2006, the division shall provide or contract to provide the course referred to in Subsection (8)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of \$50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is \$25.

(iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a

dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (8).

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

(10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to a person successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the division under Subsection (8).

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

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (8).

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

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

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

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

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

(b) The applicant shall provide the certificate to the division in compliance with Subsection (5)(d).

(11) The division may deny, suspend, or revoke the certification of a concealed firearms instructor if it 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.

(12) A concealed firearms instructor has the same appeal rights as set forth in Subsection (15).

(13) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the licensing authority are not vicariously liable for damages caused by the permit holder.

(14) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(15) (a) In the event of a denial, suspension, or revocation of a permit, 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 the denial to the review board, the applicant may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the agency has 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 **63G-4-203(1)(i)**.

(iii) The final order is final agency action for purposes of judicial review under Section **63G-4-402**.

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

**53-5-705. Temporary permit to carry concealed firearm -- Denial, suspension, or revocation -- Appeal.**

(1) The division or its designated agent may issue a temporary permit to carry a concealed firearm to a person who:

(a) has applied for a permit under Section **53-5-704**;

(b) has applied for a temporary permit under this section; and

(c) meets the criteria required in Subsections (2) and (3).

(2) To receive a temporary permit under this section, the applicant shall demonstrate in writing to the satisfaction of the licensing authority extenuating circumstances that would justify issuing a temporary permit.

(3) A temporary permit may not be issued under this section until preliminary record checks regarding the applicant have been made with the National Crime Information Center and the division to determine any criminal history.

(4) A temporary permit is valid only for a maximum of 90 days or any lesser period specified by the division, or until a permit under Section **53-5-704** is issued to the holder of the temporary permit, whichever period is shorter.

(5) The licensing authority may deny, suspend, or revoke a temporary permit prior to expiration if the commissioner determines:

(a) the circumstances justifying the temporary permit no longer exist; or

(b) the holder of the temporary permit does not meet the requirements for a permit under Section **53-5-704**.

(6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing and shall include the reasons for the action.

(b) The licensing authority's decision to deny, suspend, or revoke a temporary permit may not be appealed to the board.

(c) Denial, suspension, or revocation under this subsection is final action for purposes of judicial review under Section **63G-4-402**.

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

(1) (a) Each applicant for a permit shall pay a fee of \$35 at the time of filing an application.

(b) 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) (a) The division shall use the fees collected under Subsections (1), (2), (3), and (4) as a dedicated credit to cover the costs of issuing concealed firearm permits under this part.

(b) All revenue collected from the fees identified in Subsections (1), (2), (3), and (4) in excess of the amount necessary to cover the cost of issuing concealed firearm permits under this part shall be retained by the Bureau of Criminal Identification to help fund any other costs incurred by the bureau, but only for the fiscal year 2007-08.

(6) (a) 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.

(b) The division shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The division shall make an annual report to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section.

**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 **63G-2-301(2)(b)**, the names, addresses, telephone numbers, dates of birth, and Social Security numbers of persons receiving permits are protected records under Subsection **63G-2-305(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**.

**JUSTIFICATION OF FORCE U.C.A. § 76-2-401 – 76-2-407**

**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.

**76-2-405. 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.

### **ARREST BY PRIVATE PERSONS U.C.A. § 77-7-1,77-7-3**

#### **77-7-1. "Arrest" defined -- Restraint allowed.**

An arrest is an actual restraint of the person arrested or submission to custody. The person shall not be subjected to any more restraint than is necessary for his arrest and detention.

#### **77-7-3. By private persons.**

A private person may arrest another:

- (1) For a public offense committed or attempted in his presence; or
- (2) When a felony has been committed and he has reasonable cause to believe the person arrested has committed it.

### **WEAPONS IN PROHIBITED AREAS / CIRCUMSTANCES U.C.A. § 53-5-710, 76-8-311.1, 76-10-523, 76-10,529, and 76-10-530.**

#### **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**.

#### **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 63G, Chapter 3, 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.

### **76-10-523. 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.

### **76-10-529. 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.

**WEAPON LAWS U.C.A. § 76-10-500, 76-5-506, 76-5-509, 76-5-509.4,5,6,7,& 9. 76-10-511, 76-5-526, 76-5-528**

**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.

**76-10-506. 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.

**76-10-509. 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.

**76-10-509.5. 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.

**76-10-511. Possession of loaded firearm at residence or on real property authorized.**

Except for persons described in Section 76-10-503 and 18 U.S.C. Sec. 922(g) and as otherwise prescribed in this part, a person may have a loaded firearm:

- (1) at the person's place of residence, including any temporary residence or camp; or
- (2) on the person's real property.

**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) (a) 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.

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

(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.

(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 the individual's 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 63G, Chapter 3, 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

**63J-1-303.**

(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 the individual's 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.

**76-10-528. 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) through(c).

(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.

**ASSAULT AND RELATED OFFENSES U.C.A. § 76-5-102, 76-5-103, & 76-5-107**

**76-5-102. Assault.**

(1) Assault is:

(a) an attempt, with unlawful force or violence, to do bodily injury to another;

(b) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(c) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.

(2) Assault is a class B misdemeanor.

(3) Assault is a class A misdemeanor if:

(a) the person causes substantial bodily injury to another; or

(b) the victim is pregnant and the person has knowledge of the pregnancy.

(4) It is not a defense against assault, that the accused caused serious bodily injury to another.

**76-5-103. Aggravated assault**

(1) A person commits aggravated assault if he commits assault as defined in Section 76-5-102 and he:

(a) intentionally causes serious bodily injury to another; or

(b) under circumstances not amounting to a violation of Subsection (1)(a), uses a dangerous weapon as defined in Section 76-1-601 or other means or force likely to produce death or serious bodily injury.

- (2) A violation of Subsection (1)(a) is a second degree felony.
- (3) A violation of Subsection (1)(b) is a third degree felony.

**75-5-103. Terroristic threat -- Penalty.**

- (1) A person commits a terroristic threat if he threatens to commit any offense involving bodily injury, death, or substantial property damage, and:
  - (a) he threatens the use of a weapon of mass destruction, as defined in Section 76-10-401, or threatens by the use of a hoax weapon of mass destruction, as defined in Section 76-10-401; or
  - (b) he acts with intent to:
    - (i) intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government;
    - (ii) cause action of any nature by an official or volunteer agency organized to deal with emergencies;
    - (iii) place a person in fear of imminent serious bodily injury, substantial bodily injury, or death; or
    - (iv) prevent or interrupt the occupation of a building or a portion of the building, a place to which the public has access, or a facility or vehicle of public transportation operated by a common carrier.
- (2) (a) A violation of Subsection (1)(a) or (1)(b)(i) is a second degree felony.
- (b) A violation of Subsection (1)(b)(iv) is a third degree felony.
- (c) Any other violation of this section is a class B misdemeanor.
- (3) It is not a defense under this section that the person did not attempt to or was incapable of carrying out the threat.
- (4) A threat under this section may be express or implied.
- (5) A person who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.
- (6) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

**WEAPONS LAWS (NON-PERMIT HOLDERS): U.C.A. § 76-10-502, 76-10-503, 76-10-504, 76-10-505, & 76-10-505.5**

**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), (3), and (4), a person who carries a concealed dangerous weapon, as defined in Section **76-10-501**, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.

(2) A person who carries a concealed dangerous weapon which is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.

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

(4) 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.

(5) Nothing in Subsection (1) or (2) shall prohibit a person engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23, Wildlife Resources Code of Utah, 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, unless:

(i) the vehicle is in the person's lawful possession; or

(ii) the person is carrying the loaded firearm in a vehicle with the consent of the person lawfully in possession of the vehicle;

(b) on a public street; or

(c) in a posted prohibited area.

(2) Subsection (1)(a) does not apply to a minor under 18 years of age, since a minor under 18 years of age may not carry a loaded firearm in or on a vehicle.

(3) Notwithstanding Subsection (1)(a)(i) and (ii), a person may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.

(4) 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.

## II. U.S. FEDERAL FIREARMS REGULATIONS REFERENCE GUIDE, TITLE 18, CHAPTER 44 – FIREARMS: Title 18 Chapter 44

### A. Section 922 Unlawful acts

(a) (6) *Straw Purchase*, *Knowingly purchasing a firearm on behalf of a restricted person*

(a) (3) *Unlawful transport* *of firearm by non-licensed dealer, importer, manufacturer, or collector*

(d) (1) – (9) *Unlawful transfer* *of a firearm to restricted person*

(g) (1) – (9) *Unlawful Possession* *of a firearm by restricted person*

(q) (2) (A) *Unlawful possession of a firearm in a school zone*

**School Zone concealed firearm permit exception, (922 (q) (2) (B) (ii)**

- If the individual possessing the firearm is licensed to do so by the state in which the school zone is located or a political subdivision of the state; and
- The law of the state or political subdivision requires that before an individual obtains such a license, the law enforcement authorities of the state or political subdivision verify that the individual is qualified under law to receive the license.

**B. Section 924 Penalties (Unlawful acts)**

- 922 (a) (6) **Straw Purchase** - The person shall be fined as provided in this title, imprisoned not more than 10 years, or both. (Felony offense)
- 922 (a) (3) **Unlawful transport of firearm by non-licensed dealer, importer, manufacturer, or collector** – The person shall be fined under this title, imprisoned not more than 5 years, or both. (Felony offense)
- 922 (d) (1) **Unlawful transfer of a firearm to a restricted person.** The person shall be fined as provided in this title, imprisoned not more than 10 years, or both. (Felony offense)
- 922 (g) (1) **Unlawful possession of a firearm by a restricted person -** The person shall be fined as provided in this title, imprisoned not more than 10 years, or both. (Felony offense)
- 922 (q) (2) **Unlawful possession of a firearm in a school zone** – The person shall be fined under this title, imprisoned not more than 5 years or both. (Felony offense)

**C. Section 926A Interstate transportation of firearms**

1. Not prohibited from transporting, shipping or receiving
2. For any lawful purpose, shall be entitled to carry from one place to another
3. Firearm must be unloaded
4. Firearm and ammunition not to be readily accessible or directly accessible from the passenger compartment.
5. Firearm and ammunition contained in a locked container other than glove compartment or console

**D. Section 929 Use of restricted ammunition**

1. Possession of armor piercing ammunition and firearm capable of firing the ammunition during the commission of a crime of violence or drug trafficking

crime shall be in addition to the crime of violence or drug trafficking crime, **carries a term of imprisonment for not less than 5 years.**

**E. Section 930 Possession of firearms and dangerous weapons in federal facilities**

1. Knowingly possess or cause to be present a firearm or other dangerous weapons in a federal facility **other than a federal court facility or attempt to do so shall be fined under this title or imprisoned not more than 1 year or both.**
2. With intent to use a firearm or dangerous weapon in the commission of a crime, knowingly possess or causes to be present such firearm or dangerous weapons in a Federal facility, or attempts to do so **shall be fined under this title or imprisoned not more than 5 years, or both.**
3. Knowingly possess or cause to be present a firearm in a Federal court facility, or attempts to do so, **shall be fined under this title, imprisoned not more than 2 years or both.**
4. **Federal facility defined:** A building or part thereof owned or leased by the federal government, where federal employees are regularly present for the purpose of performing their official duties.
5. **Federal court facility:** The courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the parole offices, and adjoining corridors of any court of the United State
6. Exemptions: (Firearm Possession Allowed)
  - a. Lawful performance of official duties by officer, agent, or employee of the United States, a state, or political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law
  - b. Possession of a firearm or other dangerous weapons by a federal official or member of the armed forces if such possession is authorized by law; or

- c. The lawful carrying of firearms or other dangerous weapons in a federal facility incident to hunting or other lawful purpose.

### **III. BCI ADMINISTRATIVE POLICY**

#### **A. REGULATORY DUTIES**

1. The Utah Bureau of Criminal Identification, a division within the Utah Department of Public Safety, has charge to issue, regulate, and enforce the Utah concealed firearm permit under U.C.A. § 53-5-704.
2. Also contained under U.C.A. § 53-5-704, The Utah Bureau of Criminal Identification has charge to instruct, certify, supervise and enforce all Utah certified concealed firearm instructors.

#### **B. CONCEALED FIREARM PERMIT APPLICATION**

##### **1. PROCESSING**

- a. Must be at least 21 years to apply
- b. Must complete a firearms general familiarity course certified by BCI prior to application. BCI must receive your application within one year from the course or the training will need to be repeated.
- c. After “general familiarity” instruction, please complete the course survey. This is available on the BCI website. Please return survey by e-mail to [DPSFIREARMS@utah.gov](mailto:DPSFIREARMS@utah.gov)
- d. Apply in person or by mail at the Utah Bureau of Criminal Identification at 3888 West 5400 South, Taylorsville UT **84118-3549. Applications will be accepted from 7:00 a.m. until 5:30 p.m. Monday – Thursday at the BCI office.**
- e. Please answer all questions in the application by typing or clearly printing in ink. Attach all documentation required. Every application must be signed and notarized prior to being submitted.
- f. A non-refundable fee of \$65.25 must be included with your application. The fee consists of \$35.00 for the application and permit processing and \$30.25 charged by F.B.I. to process the

fingerprint card. The Bureau will accept cash, check, money order or credit cards (VISA and MASTERCARD). Credit card payment must include the 3 digit control number from the back of the card. Make the checks or money orders payable to the **Utah Bureau of Criminal Identification**. There will be a \$20.00 service charge for returned checks. **DO NOT SEND CASH IN THE MAIL.**

- g. Once your application is received, a background investigation will be conducted. When this process is complete and it is determined that the criteria established by law has been met, the permit will be mailed to you. Please do not call to check the status of your permit. Your application will be receipted once it is received. The bureau has 60 days by statute to process your application.

2. **WHAT MUST ACCOMPANY THE APPLICATION**

- a. Photocopy of your drivers license
- b. One (blue & white) applicant fingerprint card. The card must be filled out completely, **using black ink only**. Writing and prints must be legible. Fingerprints should be taken by a trained fingerprint technician. Fingerprints that are not legible will be returned to the applicant and will cause a delay in processing the application.
- c. One passport quality photograph, 2”X 2”. The photo must be taken against a white background, in normal attire and without hats. Your name must be included on the back of the photograph.
- d. The application must include both the physical and mailing address.
- e. If you are a resident alien or naturalized citizen, you must include your ARI or naturalization number on your application and fingerprint card.

**WARNING:** Falsification of any information in the application may result in denial, suspension, or revocation of a permit and possible criminal prosecution.

**C. CRITERIA FOR ISSUANCE, DENIAL SUSPENSION AND REVOCATION U.C.A. § 53-5-704 (1), (2), (3)**

1. **STATUTORY GUIDELINES FOR ISSUANCE AND DENIAL U.C.A. § 53-5-704 (1-2)**

(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 that 60-day period the division finds proof that the applicant is not of **good character**.

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

i. Has no felony conviction, (unless dismissed, reduced to misdemeanor or expunged);

ii. Has no conviction of a crime of violence;

iii. Has no conviction of an alcohol offense;

iv. Has no conviction of unlawful use of narcotics or controlled substance;

v. Has no conviction of Moral Turpitude

vi. Has not been conviction of a crime involving domestic violence;

vii. Has not been adjudicated mentally incompetent by a state or federal court unless withdrawn or reversed;

viii. Is qualified to purchase and possess a firearm pursuant U.C.A. § 76-10-503 and federal law

(2) (b) In assessing good character under subsection (2) (a), the licensing authority shall consider mitigating circumstances.

**2. STATUTORY GUIDELINES FOR DENIAL, SUSPENSION AND REVOCATION U.C.A. § 53-5-704 (3)**

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

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 U.C.A. § 76-10-5, Weapons
- (3) (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.
- (3) (c) In determining whether the applicant has been or is a danger to self or others, the division may inspect:
- (i) expunged records or arrests and convictions of adults as provided in Section 77-18-15; and
  - (ii) juvenile court records as provided in Section 78 –3a-206
- (3) (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.

**Note:** Danger to self or others may include threats or attempts of suicide with or without arrest or conviction.

**3. UTAH STATE FIREARM POSSESSION PROHIBITIONS, CATEGORY I, U.C.A. § 76-10-503 (1) (a) i-iv**

- i. Conviction of violent felony
- ii. On probation or parole for any felony
- iii. On Parole from a secured facility
- iv. Within the last 10 years, has been adjudicated delinquent for an offense which if committed by an adult would have been a violent as defined in Section 76-3-203.5

**4. UTAH STATE FIREARM POSSESSION PROHIBITIONS, CATEGORY II, U.C.C. § 76-10-503(2) i-x**

- i. Convicted of any felony

- ii. Within the last 7 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 control substance as defined in section 58-37-2;
- iv. 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 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.

**5. FEDERAL FIREARMS PROHIBITIONS FROM POSSESSION (18 U.S.C. CHAPTER 44, 922) (g) 1-9**

- 1. Convicted in any court of a crime punishable by imprisonment for a term exceeding one year, (Felony);
- 2. Fugitive from Justice;
- 3. Unlawful user or addicted to controlled substance;
- 4. Adjudicated as mental defective or committed to a mental institution;
- 5. Illegally or unlawfully in the United States as an alien;
- 6. Discharged from the armed forces under dishonorable conditions;

7. Having been a citizen of the United States, renounces his/her citizenship;
8. Subject to a protective order; or
9. Convicted of a misdemeanor crime of domestic violence.

**6. FALSIFICATION OF THE APPLICATION U.C.A. § 53-5-704 (14)**  
**An individual who knowingly and willfully provides false information on a concealed firearm permit or instructor application is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.**

**D. ADJUDICATIVE PROCEDURES (APPEAL PROCESS) U.C.A. § 53-5-704 (15) a-e**

- a. In the event of suspension, revocation, or denial, the application or permit holder may file a petition for review by the concealed firearms review board within 60 days.
- b. The denial of the permit shall be in writing and shall include the general reasons for the action.
- c. Upon appeal to the board, the applicant may have access to the evidence upon which the denial is based.
- d. On appeal to the board, the agency has the burden of proof by a preponderance of the evidence.
- e.
  - (i) Upon 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 Section 63G-4-203(1)(i).
  - (iii) The final order is final agency action for purposes of judicial review under Section 63G-4-203(1)(i).

**IV. OTHER PRACTICAL AND LEGAL CONSIDERATIONS**

**A. SUMMARY OF SECURED / PROHIBITED AREAS:**

1. Airports secure areas
2. Court secure areas
3. Jail secure areas
4. Post Offices
5. National parks and monuments

6. Federal Buildings
7. Correctional and mental health facilities
8. A house of worship (after all posting and notification requirements have been met)
9. A private residence if notice is given (verbal/posted sign)
10. Any area designated secure or otherwise prohibited by state or federal law

**B. Permit holders should know what to do during a police encounter:**

1. Keep your hands visible at all times.
2. Comply fully with all instructions given by the officer.
3. If you are asked if you have a firearm in your presence, it is recommended that you be completely truthful and cooperative.
4. If asked, please advise the officer of the location of the firearm.
5. Do not reach for your firearm or other weapons unless instructed to do so.

**C. RECIPROcity AND RECOGNITION:**

1. **Reciprocity:** A formalized and usually conditional agreement between states that allows the acceptance of concealed firearm permits and firearms possession within these states respectively. States with formal reciprocity are as follows:

Alabama, Alaska, Colorado, Florida, Georgia, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Texas, Virginia, Washington State, West Virginia.

2. **Recognition:** An informal policy of recognizing another states concealed firearm permit by virtue of it's validity in the state of issue. States that recognize Utah's concealed firearm permit are as follows:

Arizona, Arkansas, Delaware, Idaho, Indiana, Kentucky, Michigan, Minnesota, Missouri, Montana, New Mexico, Oklahoma, Tennessee, Vermont, Wyoming

3. **States that do not recognize Utah permits:**

California, Connecticut, Hawaii, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, New York, Oregon, Rhode Island, South Carolina, Wisconsin,

**Note: It is the responsibility of the Utah concealed firearm permit holder to research and abide by each state's laws.**

**Note:** Utah will recognize valid permits from all states or counties in accordance with U.C.A. § 76-10-523 (2) (b).

**D. DISCUSS CIVIL VS. CRIMINAL LIABILITY:**

1. **Criminal**

- a. The burden of proof is on the state "beyond a reasonable doubt."
- b. Liability determined for criminal punishment, prison, fines etc.
- c. Usually always investigated by the police.

2. **Civil**

- a. Burden of proof is on the party asserting the claim by "preponderance of the evidence."
- b. Liability determined to restore monetary or physical loss.
- c. Usually always considered following the death of a person in the form of wrongful death and personal injury law suits.

**IMPORTANT NOTE: If you use your firearm in self-defense and are later tried and found not guilty of any criminal charge, you should understand that such a verdict does not preclude a civil proceeding against you. Regardless of the outcome of a criminal trial, you may be subject to liability in a civil action.**

**F. DESCRIBE THE ESCALATION OF FORCE AND EXPLAIN THE ROLES AND RESPONSIBILITIES OF A CONCEALED FIREARM PERMIT HOLDER IN ESCALATING AND DE-ESCALATING CONFRONTATIONS.**

1. Confrontation/Threatening presence
2. Verbal threats
3. Physical
4. Less than deadly force
5. Deadly force

**Revised August 17, 2009**