

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) A person is justified in threatening or using force against another when and to the extent that the person reasonably believes that force or a threat of force is necessary to defend the person or a third person against another person's imminent use of unlawful force.

(b) A person is justified in using force intended or likely to cause death or serious bodily injury only if the person reasonably believes that force is necessary to prevent death or serious bodily injury to the person or a third person as a result of another person's imminent use of unlawful force, or to prevent the commission of a forcible felony.

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

- (i) initially provokes the use of force against the person with the intent to use force as an excuse to inflict bodily harm upon the assailant;
 - (ii) is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or
 - (iii) was the aggressor or was engaged in a combat by agreement, unless the person 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.
- (b) For purposes of Subsection (2)(a)(iii) the following do not, by themselves, constitute

"combat by agreement":

- (i) voluntarily entering into or remaining in an ongoing relationship; or
- (ii) 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)(a)(iii).

(4) (a) 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, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76, Chapter 6, Offenses Against Property.

(b) 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.

(c) 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 -- Affirmative defense.

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

- (a) lawfully in the person's possession;
- (b) lawfully in the possession of a member of the person's immediate family; or
- (c) belonging to a person whose property the person has a legal duty to protect.

(2) In determining reasonableness under Subsection (1), the trier of fact shall, in addition to any other factors, consider the following factors:

- (a) the apparent or perceived extent of the damage to the property;
- (b) property damage previously caused by the other person;
- (c) threats of personal injury or damage to property that have been made previously by the other person; and
- (d) any patterns of abuse or violence between the person and the other person.

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.

Traveling with Firearms and ammunition - Airports cont.

It's the permit holder's responsibility to know and understand the applicable laws and regulations pertaining to the individual airport and airline he or she plans on traveling with.

In regards to firearms, ammunition and weapons, pre-travel planning is imperative. Traveling begins "BEFORE" you even start to pack for your trip. Even though you are not taking a firearm, you should put together a travel checklist to include insuring all carry-on luggage is clear of any firearms, ammunition, or other prohibited weapons. This also includes items resembling a firearm or weapon i.e. replicas, red guns, etc. Checked luggage containing firearms, ammunition, or other weapons MUST be done so in compliance with state and federal law, Transportation Security Administration (TSA) regulations, the specific airport and the airline he or she is planning on flying with. It's highly recommended to check their websites and or contacting each entity directly for information regarding specific allowances and restrictions.

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.

(1) As used in this section, "threatening manner" does not include:

(a) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or

(b) informing another of the actor's possession of a deadly weapon in order to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(2)(a).

(2) Except as otherwise provided in Section 76-2-402 and for those persons described in Section 76-10-503, a person who, in the presence of two or more persons, draws or exhibits a dangerous weapon in an angry and threatening manner or unlawfully uses a dangerous weapon in a fight or quarrel is guilty of a class A misdemeanor.

(3) This section does not apply to a person who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another's use of unlawful force:

(a) threatens the use of a dangerous weapon; or

(b) draws or exhibits a dangerous weapon.

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

Every person having upon his person a dangerous weapon with intent to use it to commit a criminal offense 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 short barreled rifle or short barreled 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 short barreled rifle, short barreled 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.

(14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification. This section may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

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 & RELATED OFFENSES U.C.A. § 76-5-102, 76-5-103, 76-5-107 & 76-9-102

76-5-102. Assault -- Penalties.

(1) Assault is:

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

(b) 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 -- Penalties.

(1) Aggravated assault is an actor's conduct:

(a) that is:

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

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

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

(b) that includes the use of:

(i) a dangerous weapon as defined in Section 76-1-601; or

(ii) other means or force likely to produce death or serious bodily injury.

(2) (a) A violation of Subsection (1) is a third degree felony, except under Subsection (2)(b).

(b) A violation of Subsection (1) that results in serious bodily injury is a second degree felony.

76-5-107. Threat of violence -- Penalty.

(1) A person commits a threat of violence if:

(a) the person threatens to commit any offense involving bodily injury, death, or substantial property damage, and acts with intent to place a person in fear of imminent serious bodily injury, substantial bodily injury, or death; or

(b) the person makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another.

(2) A 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.

76-9-102. Disorderly conduct

(1) A person is guilty of disorderly conduct if:

(a) the person refuses to comply with the lawful order of a law enforcement officer to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or (b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, the person:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

(ii) makes unreasonable noises in a public place;

(iii) makes unreasonable noises in a private place which can be heard in a public place; or

(iv) obstructs vehicular or pedestrian traffic.

(2) "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(3) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section. Nothing in this Subsection (3) may limit or prohibit a law enforcement officer from approaching or engaging any person in a voluntary conversation.

(4) Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

UNIFORM FIREARM LAWS: U.C.A. § 53-5a-102&103

53-5a-102. Uniform firearm laws.

(1) The individual right to keep and bear arms being a constitutionally protected right under Article I, Section 6 of the Utah Constitution, the Legislature finds the need to provide uniform civil and criminal firearm laws throughout the state.

(2) Except as specifically provided by state law, a local authority or state entity may not:

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm at the individual's place of residence, property, business, or in any vehicle lawfully in the individual's possession or lawfully under the individual's control; or

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

(3) In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is uniformly applicable throughout this state and in all its political subdivisions and municipalities.

(4) All authority to regulate firearms is reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities.

(5) Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact, establish, or enforce any ordinance, regulation, rule, or policy pertaining to firearms that in any way inhibits or restricts the possession or use of firearms on either public or private property.

(6) As used in this section:

(a) "firearm" has the same meaning as defined in Subsection 76-10-501(9); and

(b) "local authority or state entity" includes public school districts, public schools, and state institutions of higher education.

(7) Nothing in this section restricts or expands private property rights.

53-5a-103. Discharge of firearm on private property -- Liability.

(1) Except as provided under Subsection (2), a private property owner, who knowingly allows a person who has a permit to carry a concealed firearm under Section 53-5-704 to bring the firearm onto the owner's property, is not civilly or criminally liable for any damage or harm resulting from the discharge of the firearm by the permit holder while on the owner's property.

(2) Subsection (1) does not apply if the property owner solicits, requests, commands, encourages, or intentionally aids the concealed firearm permit holder in discharging the firearm while on the owner's property.

CHAPTER 45. PROTECTION OF ACTIVITIES IN PRIVATE VEHICLES

U.C.A. 34-45-103

34-45-103. Protection of certain activities -- Firearms -- Free exercise of religion.

(1) Except as provided in Subsection (2), a person may not establish, maintain, or enforce any policy or rule that has the effect of:

(a) prohibiting any individual from transporting or storing a firearm in a motor vehicle on any property designated for motor vehicle parking, if:

(i) the individual is legally permitted to transport, possess, purchase, receive, transfer, or store the firearm;

(ii) the firearm is locked securely in the motor vehicle or in a locked container attached to the motor vehicle while the motor vehicle is not occupied; and

(iii) the firearm is not in plain view from the outside of the motor vehicle; or

(b) prohibiting any individual from possessing any item in or on a motor vehicle on any property designated for motor vehicle parking, if the effect of the policy or rule constitutes a substantial burden on that individual's free exercise of religion.

(2) A person may establish, maintain, or enforce a policy or rule that has the effect of placing limitations on or prohibiting an individual from transporting or storing a firearm in a motor vehicle on property the person has designated for motor vehicle parking if:

(a) the person provides, or there is otherwise available, one of the following, in a location reasonably proximate to the property the person has designated for motor vehicle parking:

(i) alternative parking for individuals who desire to transport, possess, receive, transfer, or store a firearm in the individual's motor vehicle at no additional cost to the individual; or

(ii) a secured and monitored storage location where the individual may securely store a firearm before proceeding with the vehicle into the secured parking area; or

(b) the person complies with Subsection 34-45-107(5).

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;

(iv) within the last 10 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; or
(v) is an alien who is illegally or unlawfully in the United States.

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

(i) has been convicted of 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) has been dishonorably discharged from the armed forces; or

(ix) 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 the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's 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 the person's 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.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 76-10-525;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person what the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

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 firearm, 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 firearm that is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.

(3) A person who carries concealed an unlawfully possessed short barrel shotgun or a short barrel 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) prohibits 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 firearm 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 short barrel shotgun on or about school premises -- Penalties.

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

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

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

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

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

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

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

(2) A person may not possess any dangerous weapon, firearm, or short barrel 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 this section.

- (3) (a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.
(b) Possession of a firearm or short barrel shotgun on or about school premises is a class A misdemeanor.
- (4) 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; or
- (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.
- (5) This section does not prohibit prosecution of a more serious weapons offense that may occur on or about school premises.

PROHIBITION OF RESTRICTIONS ON AND CONFISCATION OF A FIREARM OR AMMUNITION DURING AN EMERGENCY. 63K-4-405

- (1) As used in this section:
- (a) (i) "Confiscate" means for an individual in Utah to intentionally deprive another of a privately owned firearm.
(ii) "Confiscate" does not include the taking of a firearm from an individual:
- (A) in self-defense;
- (B) possessing a firearm while the individual is committing a felony or misdemeanor; or
- (C) who may not, under state or federal law, possess the firearm.
- (b) "Firearm" has the same meaning as defined in Subsection 76-10-501(9).
- (2) During a declared state of emergency or local emergency under this chapter:
- (a) neither the governor nor an agency of a governmental entity or political subdivision of the state may impose restrictions, which were not in force prior to the declared state of emergency, on the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition; and
- (b) an individual, while acting or purporting to act on behalf of the state or a political subdivision of the state, may not confiscate a privately owned firearm of another individual.
- (3) A law or regulation passed during a declared state of emergency that does not relate specifically to the lawful possession or use of a firearm and that has attached criminal penalties may not be used to justify the confiscation of a firearm from an individual acting in defense of self, property, or others when on:
- (a) the individual's private property; or
- (b) the private property of another as an invitee.
- (4) (a) An individual who has a firearm confiscated in violation of Subsection (2) may bring a civil action in a court having the appropriate jurisdiction:
- (i) for damages, in the maximum amount of \$10,000, against a person who violates Subsection (2);
- (ii) for a civil penalty, in the amount of \$5,000 per violation, against a person who violates

Subsection (2); and

(iii) for return of the confiscated firearm.

(b) As used in this Subsection (4), "person" means an individual, the governmental entity on whose behalf the individual is acting or purporting to act, or both the individual and the governmental entity.

(5) (a) A law enforcement officer shall not be subject to disciplinary action for refusing to confiscate a firearm under this section if:

(i) ordered or directed to do so by a superior officer; and

(ii) by obeying the order or direction, the law enforcement officer would be committing a violation of this section.

(b) For purposes of this Subsection (5), disciplinary action might include:

(i) dismissal, suspension, or demotion;

(ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

(iii) any type of written or electronic indication, permanent or temporary, on the officer's personnel record of the officer's refusal to obey the unlawful order.

(6) (a) If a law enforcement officer commits a violation of this section, the officer's liability in an action brought under Subsection (4)(a) is limited to 5% of the damages and civil

penalty allowed under Subsection (4)(a) if the officer can show by clear and convincing evidence that the officer was obeying a direct and unlawful order from a superior officer or authority.

(b) The balance of the damages and civil penalty, the remaining 95%, shall be assessed against the superior officer or authority who ordered or directed the confiscation in violation of this section.

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)

1. 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 bureau 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
- d. Apply in person or by mail at the Utah Bureau of Criminal Identification at 3888 West 5400 South, Taylorsville UT 84129. **Applications will be accepted from 8:00 a.m. until 5:00 p.m. Monday – Friday at the BCI office.**

2. PLEASE ANSWER ALL QUESTIONS IN THE APPLICATION BY TYPING OR CLEARLY PRINTING IN INK. ATTACH ALL DOCUMENTATION REQUIRED. EVERY APPLICATION MUST BE SIGNED AND DATED PRIOR TO BEING SUBMITTED.

A non-refundable fee of **\$57.00** will be charged for in-state concealed firearm permit applicants. Out of state applicants will be charged **\$67.00**. 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.**

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.

3. **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 or sunglasses. Your name must be included on the back of the photograph.
- d. The application must include the applicant’s physical address. Also include the mailing address, if it differs from the physical address.
- e. If a non-resident applicant is from a state that either has a formal reciprocity agreement or recognizes the Utah permit, the applicant must hold and provide proof of a current concealed firearm or concealed weapon permit issued through their state of residency upon application for the Utah concealed firearm permit. This change will not affect those applicants who reside in a state that does not have formal reciprocity or recognition with Utah.
- f. If you are a resident alien or naturalized citizen, you must include your alien registration number 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.

4. **WHAT MUST ACCOMPANY THE RENEWAL APPLICATION**

- a. **\$15.00** renewal application/processing fee
- b. One passport quality photograph, 2”X 2”. The photo must be taken against a white background, in normal attire and without hats or sunglasses. Your name and Utah permit number must be

included on the back of the photograph.

- c. Permit holders can renew in person, by mail and may also renew online. To renew online, go to <https://secure.utah.gov/concealed-firearms>. There is a \$0.75 convenience fee to renew over the internet. Permit holders will need the capability to upload a passport quality photo and a copy of his/her own states concealed firearm permit or concealed weapon permit, if applicable.
- d. If a non-resident applicant is from a state that either has a formal reciprocity agreement or recognizes the Utah permit, the applicant must hold and provide proof of a current concealed firearm or concealed weapon permit issued through their state of residency upon application for the Utah concealed firearm permit. This change will not affect those applicants who reside in a state that does not have formal reciprocity or recognition with Utah, i.e. California, New York, etc.

NOTE: The Utah concealed firearm permit is valid for **5 years** from the date the permit was issued. Permit holders can renew up to 90 days prior to expiration.

Permits expired by more than 30 days will incur a \$7.50 late fee. Expired permits received after one year of expiration must start the full application process again.

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. CONCEALED FIREARM PERMIT STATUTORY GUIDELINES U.C.A. § 53-5-704 (1-3)

- (1) (a) The bureau **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 bureau finds proof that the applicant does not meet the qualifications set forth in subsection (2).
- (2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:
 - i. Has been or is convicted of a felony;
 - ii. Has been or is convicted of a crime of violence;

- iii. Has been or is convicted of an offense involving the use of alcohol;
- iv. Has been or is convicted of an offense involving the unlawful use of narcotics or controlled substance;
- v. Has been or is convicted of an offense involving moral turpitude;
- vi. Has been or is convicted of a crime involving domestic violence;
- vii. Has been or is adjudicated mentally incompetent by a state or federal court as mentally incompetent unless the adjudication has been withdrawn or reversed and;
- viii. Is not qualified to purchase and possess a firearm pursuant U.C.A. § 76-10-503 and federal law

(2) (b) In determining whether an applicant meets the qualifications set forth in subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder 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 bureau 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 bureau 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

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

2. 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; or
- v. is an alien who is illegally or unlawfully in the United States

3. UTAH STATE FIREARM POSSESSION PROHIBITIONS, CATEGORY II, U.C.A. § 76-10-503(1)(b) 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. Has been dishonorably discharged from the armed forces, or

- ix. Has renounced his citizenship after having been a citizen of the United States.

4. 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. Illegal 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.

**5. 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 (16) 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 bureau 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. Federal Buildings
- 5. Correctional and mental health facilities
- 6. A house of worship (after all posting and notification requirements have been met)
- 7. A private residence if notice is given (verbal/posted sign)
- 8. 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/weapons or anything else 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 and 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, Iowa, Kansas, Kentucky, Maine, Michigan, Missouri, Montana, Nebraska, Nevada, Oklahoma, Tennessee, Vermont, Wisconsin and Wyoming.

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

California, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Oregon, Rhode Island and South Carolina.

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).



- States which have formal reciprocity with Utah
- States which recognize the Utah concealed firearm permit
- States which DO NOT recognize the Utah concealed firearm permit

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.

E. 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

F. CONCEALED FIREARM PERMIT HOLDERS RESPONSIBILITY

1. **LAWS CONSISTENTLY CHANGE, THEREFORE IT IS THE RESPONSIBILITY OF EACH PERMIT HOLDER TO KEEP UP WITH CHANGES IN FEDERAL LAW, STATE LAW AND APPLICABLE ADMINISTRATIVE RULES.**