

WEAPONS RESTRICTIONS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K. Thurston

Senate Sponsor: _____

LONG TITLE

General Description:

This bill changes the requirements for using a dangerous weapon while under the influence of alcohol.

Highlighted Provisions:

This bill:

- ▶ eliminates the prohibition of carrying a dangerous weapon while a person's alcohol concentration level exceeds the statutory limit under certain circumstances; and
- ▶ provides an exception if a person uses a dangerous weapon in the person's residence or in defense of others and the person's alcohol concentration level exceeds the statutory limit.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-523, as last amended by Laws of Utah 2014, Chapter 248

76-10-528, as last amended by Laws of Utah 2008, Chapter 226

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



28 Section 1. Section **76-10-523** is amended to read:

29 **76-10-523. Persons exempt from weapons laws.**

30 (1) Except for Sections [76-10-506](#), [76-10-508](#), [~~and~~] [76-10-508.1](#), and [76-10-528](#), this
31 part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the
32 following:

- 33 (a) a United States marshal;
- 34 (b) a federal official required to carry a firearm;
- 35 (c) a peace officer of this or any other jurisdiction;
- 36 (d) a law enforcement official as defined and qualified under Section [53-5-711](#);
- 37 (e) a judge as defined and qualified under Section [53-5-711](#); or
- 38 (f) a common carrier while engaged in the regular and ordinary transport of firearms as
39 merchandise.

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

- 42 (a) pursuant to Section [53-5-704](#); or
- 43 (b) by another state or county.

44 (3) Except for Sections [76-10-503](#), [76-10-506](#), [76-10-508](#), and [76-10-508.1](#), this part
45 and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling
46 in or through the state, provided that any firearm is:

- 47 (a) unloaded; and
- 48 (b) securely encased as defined in Section [76-10-501](#).

49 Section 2. Section **76-10-528** is amended to read:

50 **76-10-528. Using a dangerous weapon while under influence of alcohol or drugs**
51 **unlawful.**

52 (1) [~~Any person who carries~~] It is a class B misdemeanor for any person to use a
53 dangerous weapon while under the influence of:

54 (a) alcohol as determined by the person's blood or breath alcohol concentration in
55 accordance with Subsections [41-6a-502](#)(1)(a) through (c); or

56 (b) a controlled substance as defined in Section [58-37-2](#) [~~is guilty of a class B~~
57 misdemeanor. Under the influence means the same level of influence or blood or breath
58 alcohol concentration as provided in Subsections [41-6a-502](#)(1)(a) through(c)].

- 59 (2) This section does not apply to:
60 (a) a person carrying a dangerous weapon that is either securely encased or not readily
61 accessible for immediate use, as defined in this part;
62 (b) any person who uses or threatens to use force in compliance with Section [76-2-402](#);
63 or
64 (c) any person carrying a dangerous weapon in or on the person's residence or property,
65 a business under the person's control, or the residence of another with the consent of the
66 individual who is lawfully in possession.
67 ~~(2)~~ (3) It is not a defense to prosecution under this section that the person:
68 (a) is licensed in the pursuit of wildlife of any kind; or
69 (b) has a valid permit to carry a concealed firearm.
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Legislative Review Note
Office of Legislative Research and General Counsel