

Karianne Lisonbee proposes the following substitute bill:

Noncitizen Restricted Person Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor:

LONG TITLE

General Description:

This bill clarifies when a non-citizen is a restricted person.

Highlighted Provisions:

This bill:

- clarifies that aliens who have applications pending for asylum or temporary protected status are restricted persons not allowed to possess, purchase, transfer, or own dangerous weapons;

- contains a coordination clause to coordinate technical changes between this bill and H.B. 133, Dangerous Weapons Amendments; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-10-503, as last amended by Laws of Utah 2023, First Special Session, Chapter 2

Utah Code Sections affected by Coordination Clause:

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

Section 1. Section **76-10-503** is amended to read:

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

(1) For purposes of this section:

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

(i) has been convicted of a violent felony;

- 30 (ii) is on probation or parole for a felony;
- 31 (iii) is on parole from secure care, as defined in Section 80-1-102;
- 32 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an
33 offense which if committed by an adult would have been a violent felony as
34 defined in Section 76-3-203.5;
- 35 (v) is an alien who is illegally or unlawfully in the United States, including an alien
36 who has:
- 37 (A) submitted an asylum application in accordance with 8 U.S.C. Sec. 1158 and is
38 waiting for a disposition on the application; or
- 39 (B) submitted a temporary protected status application in accordance with 8
40 U.S.C. Sec. 1254a and is waiting for a disposition on the application; or
- 41 (vi) is on probation for a conviction of possessing:
- 42 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled
43 substance;
- 44 (B) a controlled substance analog; or
- 45 (C) a substance listed in Section 58-37-4.2.
- 46 (b) A Category II restricted person is a person who:
- 47 (i) has been convicted of:
- 48 (A) a domestic violence offense that is a felony;
- 49 (B) a felony that is not a domestic violence offense or a violent felony and within
50 seven years after completing the sentence for the conviction, has been
51 convicted of or charged with another felony or class A misdemeanor;
- 52 (C) multiple felonies that are part of a single criminal episode and are not
53 domestic violence offenses or violent felonies and within seven years after
54 completing the sentence for the convictions, has been convicted of or charged
55 with another felony or class A misdemeanor; or
- 56 (D) multiple felonies that are not part of a single criminal episode;
- 57 (ii)(A) within the last seven years has completed a sentence for:
- 58 (I) a conviction for a felony that is not a domestic violence offense or a violent
59 felony; or
- 60 (II) convictions for multiple felonies that are part of a single criminal episode
61 and are not domestic violence offenses or violent felonies; and
- 62 (B) within the last seven years and after the completion of a sentence for a
63 conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or

- 64 charged with another felony or class A misdemeanor;
- 65 (iii) within the last seven years has been adjudicated delinquent for an offense which
66 if committed by an adult would have been a felony;
- 67 (iv) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 68 (v) is in possession of a dangerous weapon and is knowingly and intentionally in
69 unlawful possession of a Schedule I or II controlled substance as defined in
70 Section 58-37-2;
- 71 (vi) has been found not guilty by reason of insanity for a felony offense;
- 72 (vii) has been found mentally incompetent to stand trial for a felony offense;
- 73 (viii) has been adjudicated as mentally defective as provided in the Brady Handgun
74 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been
75 committed to a mental institution;
- 76 (ix) has been dishonorably discharged from the armed forces;
- 77 (x) has renounced the individual's citizenship after having been a citizen of the
78 United States;
- 79 (xi) is a respondent or defendant subject to a protective order or child protective order
80 that is issued after a hearing for which the respondent or defendant received actual
81 notice and at which the respondent or defendant has an opportunity to participate,
82 that restrains the respondent or defendant from harassing, stalking, threatening, or
83 engaging in other conduct that would place an intimate partner, as defined in 18
84 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily
85 injury to the intimate partner or child of the intimate partner, and that:
- 86 (A) includes a finding that the respondent or defendant represents a credible threat
87 to the physical safety of an individual who meets the definition of an intimate
88 partner in 18 U.S.C. Sec. 921 or the child of the individual; or
- 89 (B) explicitly prohibits the use, attempted use, or threatened use of physical force
90 that would reasonably be expected to cause bodily harm against an intimate
91 partner or the child of an intimate partner; or
- 92 (xii) except as provided in Subsection (1)(d), has been convicted of the commission
93 or attempted commission of misdemeanor assault under Section 76-5-102 or
94 aggravated assault under Section 76-5-103 against an individual:
- 95 (A) who is a current or former spouse, parent, or guardian;
- 96 (B) with whom the restricted person shares a child in common;
- 97 (C) who is cohabitating or has cohabitated with the restricted person as a spouse,

98 parent, or guardian;

99 (D) involved in a dating relationship with the restricted person within the last five
100 years; or

101 (E) similarly situated to a spouse, parent, or guardian of the restricted person.

102 (c)(i) As used in this section, a conviction of a felony or adjudication of delinquency
103 for an offense which would be a felony if committed by an adult does not include:

104 (A) a conviction or an adjudication under Section 80-6-701 for an offense
105 pertaining to antitrust violations, unfair trade practices, restraint of trade, or
106 other similar offenses relating to the regulation of business practices not
107 involving theft or fraud; or

108 (B) a conviction or an adjudication under Section 80-6-701 which, in accordance
109 with the law of the jurisdiction in which the conviction or adjudication
110 occurred, has been expunged, set aside, reduced to a misdemeanor by court
111 order, pardoned or regarding which the person's civil rights have been restored
112 unless the pardon, reduction, expungement, or restoration of civil rights
113 expressly provides that the person may not ship, transport, possess, or receive
114 firearms.

115 (ii) As used in this section, a conviction for misdemeanor assault under Subsection
116 (1)(b)(xii), does not include a conviction which, in accordance with the law of the
117 jurisdiction in which the conviction occurred, has been expunged, set aside,
118 reduced to an infraction by court order, pardoned, or regarding which the person's
119 civil rights have been restored, unless the pardon, reduction, expungement, or
120 restoration of civil rights expressly provides that the person may not ship,
121 transport, possess, or receive firearms.

122 (iii) It is the burden of the defendant in a criminal case to provide evidence that a
123 conviction or an adjudication under Section 80-6-701 is subject to an exception
124 provided in this Subsection (1)(c), after which it is the burden of the state to prove
125 beyond a reasonable doubt that the conviction or the adjudication is not subject to
126 that exception.

127 (d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:

128 (i) five years have elapsed from the later of:

129 (A) the day on which the conviction is entered;

130 (B) the day on which the person is released from incarceration following the
131 conviction; or

- 132 (C) the day on which the person's probation for the conviction is successfully
133 terminated;
- 134 (ii) the person only has a single conviction for misdemeanor assault as described in
135 Subsection (1)(b)(xii)(D); and
- 136 (iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).
- 137 (2) A Category I restricted person who intentionally or knowingly agrees, consents, offers,
138 or arranges to purchase, transfer, possess, use, or have under the person's custody or
139 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has
140 under the person's custody or control:
- 141 (a) a firearm is guilty of a second degree felony; or
142 (b) a dangerous weapon other than a firearm is guilty of a third degree felony.
- 143 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
144 possesses, uses, or has under the person's custody or control:
- 145 (a) a firearm is guilty of a third degree felony; or
146 (b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.
- 147 (4) A person may be subject to the restrictions of both categories at the same time.
- 148 (5) A Category I or Category II restricted person may not use an antique firearm for an
149 activity regulated under Title 23A, Wildlife Resources Act.
- 150 (6) If a higher penalty than is prescribed in this section is provided in another section for
151 one who purchases, transfers, possesses, uses, or has under this custody or control a
152 dangerous weapon, the penalties of that section control.
- 153 (7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v)
154 that the person was:
- 155 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner for
156 use of a member of the person's household or for administration to an animal owned
157 by the person or a member of the person's household; or
158 (b) otherwise authorized by law to possess the substance.
- 159 (8)(a) It is an affirmative defense to transferring a firearm or other dangerous weapon by
160 a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:
- 161 (i) was possessed by the person or was under the person's custody or control before
162 the person became a restricted person;
- 163 (ii) was not used in or possessed during the commission of a crime or subject to
164 disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized
165 Property and Contraband;

- 166 (iii) is not being held as evidence by a court or law enforcement agency;
167 (iv) was transferred to a person not legally prohibited from possessing the weapon;
168 and
169 (v) unless a different time is ordered by the court, was transferred within 10 days of
170 the person becoming a restricted person.
- 171 (b) Subsection (8)(a) is not a defense to the use, purchase, or possession on the person of
172 a firearm or other dangerous weapon by a restricted person.
- 173 (9)(a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous
174 weapon to a person, knowing that the recipient is a person described in Subsection
175 (1)(a) or (b).
- 176 (b) A person who violates Subsection (9)(a) when the recipient is:
- 177 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
178 guilty of a second degree felony;
- 179 (ii) a person described in Subsection (1)(a) and the transaction involves a dangerous
180 weapon other than a firearm, and the transferor has knowledge that the recipient
181 intends to use the weapon for any unlawful purpose, is guilty of a third degree
182 felony;
- 183 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
184 guilty of a third degree felony; or
- 185 (iv) a person described in Subsection (1)(b) and the transaction involves a dangerous
186 weapon other than a firearm, and the transferor has knowledge that the recipient
187 intends to use the weapon for an unlawful purpose, is guilty of a class A
188 misdemeanor.
- 189 (10)(a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
190 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon
191 under circumstances which the person knows would be a violation of the law.
- 192 (b) A person may not provide to a dealer or other person information that the person
193 knows to be materially false information with intent to deceive the dealer or other
194 person about the legality of a sale, transfer or other disposition of a firearm or
195 dangerous weapon.
- 196 (c) "Materially false information" means information that portrays an illegal transaction
197 as legal or a legal transaction as illegal.
- 198 (d) A person who violates this Subsection (10) is guilty of:
- 199 (i) a third degree felony if the transaction involved a firearm; or

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

202 Section 2. **Effective Date.**

203 This bill takes effect on May 7, 2025.

204 Section 3. **Coordinating H.B. 183 with H.B. 133.**

205 If H.B. 183, Noncitizen Restricted Person Amendments, and H.B. 133, Dangerous
206 Weapons Amendments, both pass and become law, the Legislature intends that, on May 7,
207 2025, Subsection 76-11-302(5), enacted in H.B. 133, be amended to read:

208 "(5) being an alien who is illegally or unlawfully in the United States, including an alien
209 who has:

210 (a) submitted an asylum application in accordance with 8 U.S.C. Sec. 1158 and is
211 waiting for a disposition on the application; or

212 (b) submitted a temporary protected status application in accordance with 8 U.S.C.
213 Sec. 1254a and is waiting for a disposition on the application; or".