

PEACE OFFICER AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Blake D. Chard

AN ACT RELATING TO PUBLIC SAFETY; MODIFYING AND CLARIFYING THE VARIOUS CLASSIFICATIONS OF PEACE OFFICERS AND THE REQUISITE TRAINING AND CERTIFICATION; MAKING TECHNICAL CHANGES; AND PROVIDING A COORDINATION CLAUSE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 2-2-7**, as last amended by Chapter 120, Laws of Utah 1994
- 17-22-1.5**, as last amended by Chapters 227 and 234, Laws of Utah 1993
- 17-22-27**, as last amended by Chapter 198, Laws of Utah 1996
- 20A-5-605**, as last amended by Chapter 3, Laws of Utah 1996, Second Special Session
- 23-20-1**, as last amended by Chapter 212, Laws of Utah 1992
- 23-20-1.5**, as enacted by Chapter 33, Laws of Utah 1973
- 23-20-16**, as repealed and reenacted by Chapter 260, Laws of Utah 1992
- 23-23-2**, as last amended by Chapter 258, Laws of Utah 1997
- 26-6-27**, as renumbered and amended by Chapter 201 and last amended by Chapter 318, Laws of Utah 1996
- 26-6a-1**, as enacted by Chapter 14, Laws of Utah 1988, Second Special Session
- 27-17-501**, as last amended by Chapter 79 and renumbered and amended by Chapter 170, Laws of Utah 1996
- 30-6-1**, as last amended by Chapter 303, Laws of Utah 1997
- 30-6-4.1**, as enacted by Chapter 300, Laws of Utah 1995
- 32A-10-202**, as last amended by Chapter 132, Laws of Utah 1991
- 32A-11-102**, as last amended by Chapter 132, Laws of Utah 1991
- 41-3-105**, as last amended by Chapter 1 and renumbered and amended by Chapter 234, Laws of Utah 1992

41-6-1, as last amended by Chapter 208, Laws of Utah 1996
41-6-103, as enacted by Chapter 33, Laws of Utah 1978
41-6-114, as last amended by Chapter 241, Laws of Utah 1979
41-6-117.5, as enacted by Chapter 242, Laws of Utah 1979
41-6-153, as enacted by Chapter 242, Laws of Utah 1979
41-6-167, as last amended by Chapter 183, Laws of Utah 1983
41-6-169, Utah Code Annotated 1953
41-6-172, Utah Code Annotated 1953
41-12a-501, as last amended by Chapter 51, Laws of Utah 1997
41-22-16, as last amended by Chapter 162, Laws of Utah 1987
49-4-103, as last amended by Chapter 31, Laws of Utah 1997
49-4-203, as last amended by Chapter 87, Laws of Utah 1997
49-4a-103, as last amended by Chapter 31, Laws of Utah 1997
49-4a-203, as last amended by Chapter 87, Laws of Utah 1997
49-8-405, as last amended by Chapter 34, Laws of Utah 1990
53-1-102, as enacted by Chapter 234, Laws of Utah 1993
53-1-109, as last amended by Chapter 104, Laws of Utah 1997
53-3-417, as last amended by Chapter 7, Laws of Utah 1994
53-3-702, as renumbered and amended by Chapter 234, Laws of Utah 1993
53-5-207, as renumbered and amended by Chapter 234, Laws of Utah 1993
53-6-203, as last amended by Chapter 79, Laws of Utah 1996
53-6-211, as last amended by Chapter 315, Laws of Utah 1997
53-6-212, as renumbered and amended by Chapter 234, Laws of Utah 1993
53-7-105, as renumbered and amended by Chapter 234, Laws of Utah 1993
53-9-118, as enacted by Chapter 314, Laws of Utah 1995
53A-13-106, as enacted by Chapter 86, Laws of Utah 1994
53B-8c-102, as enacted by Chapter 333, Laws of Utah 1997
53B-8c-103, as enacted by Chapter 333, Laws of Utah 1997

56-1-21.5, as enacted by Chapter 215, Laws of Utah 1985
62A-4a-202.5, as enacted by Chapter 318, Laws of Utah 1996
63-11-17.2, as enacted by Chapter 315, Laws of Utah 1997
63-25a-402, as last amended by Chapter 308, Laws of Utah 1997
63-34-6, as last amended by Chapters 276 and 315, Laws of Utah 1997
64-13-21, as last amended by Chapter 100, Laws of Utah 1996
64-13-21.5, as enacted by Chapter 103, Laws of Utah 1993
65A-3-3, as last amended by Chapter 38, Laws of Utah 1993
67-19-12.3, as last amended by Chapter 213, Laws of Utah 1997
67-19-39, as enacted by Chapter 280, Laws of Utah 1990
73-18-20, as last amended by Chapter 99, Laws of Utah 1987
76-2-303, as enacted by Chapter 196, Laws of Utah 1973
76-6-601, as last amended by Chapter 234, Laws of Utah 1993
76-8-506, as last amended by Chapter 90, Laws of Utah 1988
76-9-301.6, as last amended by Chapter 7, Laws of Utah 1996, Second Special Session
76-10-1504, as last amended by Chapter 289, Laws of Utah 1997
76-10-1505, as enacted by Chapter 72, Laws of Utah 1979
76-10-1507, as enacted by Chapter 72, Laws of Utah 1979
77-7-13, as last amended by Chapter 245, Laws of Utah 1987
77-9-3, as enacted by Chapter 15, Laws of Utah 1980
77-23-102, as enacted by Chapter 72, Laws of Utah 1992
77-23-204, as renumbered and amended by Chapter 142, Laws of Utah 1994
77-23a-3, as last amended by Chapter 201, Laws of Utah 1994
77-27-26, as last amended by Chapter 320, Laws of Utah 1983
77-39-101, as enacted by Chapter 168, Laws of Utah 1994
78-5-111, as last amended by Chapter 38, Laws of Utah 1993
78-27-33, as last amended by Chapter 30, Laws of Utah 1992
78-29-101, as enacted by Chapter 107, Laws of Utah 1995

78-38-4.6, as enacted by Chapter 212, Laws of Utah 1987

ENACTS:

53-10-101, Utah Code Annotated 1953

53-10-111, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53-10-102, (Renumbered from 77-1a-1.5, as enacted by Chapter 103, Laws of Utah 1993)

53-10-103, (Renumbered from 77-1a-1, as last amended by Chapter 315, Laws of Utah 1997)

53-10-104, (Renumbered from 77-1a-2, as last amended by Chapters 7 and 315, Laws of Utah 1997)

53-10-105, (Renumbered from 77-1a-4, as last amended by Chapter 315, Laws of Utah 1997)

53-10-106, (Renumbered from 77-1a-5, as last amended by Chapter 197, Laws of Utah 1991)

53-10-107, (Renumbered from 77-1a-6, as last amended by Chapter 135, Laws of Utah 1988)

53-10-108, (Renumbered from 77-1a-8, as last amended by Chapter 82, Laws of Utah 1989)

53-10-109, (Renumbered from 77-1a-9, as enacted by Chapter 174, Laws of Utah 1985)

53-10-110, (Renumbered from 77-1a-10, as enacted by Chapter 318, Laws of Utah 1996)

REPEALS:

76-9-302, as last amended by Chapter 32, Laws of Utah 1974

77-1a-3, as enacted by Chapter 174, Laws of Utah 1985

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

Section 1. Section **2-2-7** is amended to read:

2-2-7. Powers of department and political subdivisions over airports -- Security unit.

(1) The Department of Transportation, and counties, municipalities, or other political subdivisions of this state that have established or may establish airports or that acquire, lease, or set apart real property for those purposes, may:

(a) construct, equip, improve, maintain, and operate the airports or may vest the authority for their construction, equipment, improvement, maintenance, and operation in an officer of the Department of Transportation or in an officer, board, or body of the political subdivision;

(b) adopt rules, establish charges, fees, and tolls for the use of airports and landing fields,

fix penalties for the violation of the rules, and establish liens to enforce payment of the charges, fees, and tolls, subject to approval by the Aeronautical Committee;

(c) lease the airports to private parties for operation for a term not exceeding 50 years, as long as the public is not deprived of its rightful, equal, and uniform use of the facility;

(d) lease or assign space, area, improvements, equipment, buildings, and facilities on the airports to private parties for operation for a term not exceeding 50 years;

(e) lease or assign real property comprising all or any part of the airports to private parties for the construction and operation of hangars, shop buildings, or office buildings for a term not exceeding 50 years, if the projected construction cost of the hangar, shop building, or office building is \$100,000 or more; and

(f) establish, maintain, operate, and staff a security unit for the purpose of enforcing state and local laws at any airport that is subject to federal airport security regulations.

(2) The department or political subdivision shall pay the construction, equipment, improvement, maintenance, and operations expenses of any airport established by them under Subsection (1) (a).

(3) (a) If the department or political subdivision establishes a security unit under Subsection (1) (f), the department head or the governing body of the political subdivision shall appoint persons qualified as peace officers under Title [77] 53, Chapter [1a] 10, Peace Officer [Designation] Classifications to staff the security unit.

(b) A security unit appointed by the department or political subdivision is exempt from civil service regulations.

Section 2. Section **17-22-1.5** is amended to read:

17-22-1.5. County sheriff qualifications.

(1) In addition to the general qualifications required of county officers by Title 17, Chapter 16, County Officers, each county sheriff must meet each of the following qualifications during his term of office:

(a) Prior to taking office, a county sheriff must be certified as a [peace] law enforcement officer according to procedures and requirements of Title 53, Chapter 6, Peace Officer Standards and

Training, and shall satisfactorily complete annual certified training as required in Section ~~[77-1a-1]~~ 53-10-103.

(b) After certification, each county sheriff must remain certified as a ~~[peace]~~ law enforcement officer during his term of office.

(2) The county legislative body shall declare the office of sheriff to be vacant if at any time the incumbent sheriff fails to meet the legal qualifications for office under Subsection (1).

Section 3. Section **17-22-27** is amended to read:

17-22-27. Sheriff -- Assignment of court bailiffs -- Contract and costs.

(1) The sheriff shall assign ~~[peace]~~ law enforcement officers or special function officers, as defined under Sections ~~[77-1a-1]~~ 53-10-103 and ~~[77-1a-4]~~ 53-10-105, to serve as court bailiffs and security officers in the courts of record and county justice courts as required by the rules of the Judicial Council.

(2) (a) The state court administrator shall enter into a contract with the county sheriff for bailiffs and building security officers for the district courts within the county. The contract shall not exceed amounts appropriated by the Legislature for that purpose. The county shall assume costs related to security administration, supervision, travel, equipment, and training of bailiffs.

(b) The contract shall specify the agreed services, costs of services, and terms of payment.

(c) If the court is located in the same facility as a state or local law enforcement agency and the county sheriff's office is not in close proximity to the court, the State Court Administrator in consultation with the sheriff may enter into a contract with the state or local law enforcement agency for bailiff and security services subject to meeting all other requirements of this section. If the services are provided by another agency, the county sheriff shall have no responsibility for the services under this section.

(3) (a) At the request of the court, the sheriff may appoint as a law clerk bailiff graduates of a law school accredited by the American Bar Association to provide security and legal research assistance. Any law clerk who is also a bailiff shall meet the requirements of Subsection (1) of this section.

(b) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two

years, who shall be exempt from the deputy sheriff merit service commission.

Section 4. Section **20A-5-605** is amended to read:

20A-5-605. Duties of election judges on election day.

(1) (a) Receiving judges shall arrive at the polling place 30 minutes before the polls open and remain until the official election returns are prepared for delivery.

(b) Counting judges shall be at the polls as directed by the election officer and remain until the official election returns are prepared for delivery.

(2) Upon their arrival to open the polls, each set of election judges shall:

(a) designate which judge shall preside and which judges shall act as clerks;

(b) in voting precincts using paper ballots, select one of their number to deliver the election returns to the election officer or to the place that the election officer designates;

(c) in voting precincts using ballot cards, select two of their number, each from a different party, to deliver the election returns to the election officer or to the place that the election officer designates;

(d) display the United States flag;

(e) open the voting devices and examine them to see that they are in proper working order;

(f) place the voting devices, voting booths, and the ballot box in plain view of election judges and watchers;

(g) open the ballot packages in the presence of all the judges;

(h) check the ballots, supplies, records, and forms;

(i) if directed to do so by the election officer, make any necessary corrections to the official ballots before they are distributed at the polls;

(j) post the sample ballots, instructions to voters, and constitutional amendments, if any;

(k) hang the posting list near the polling place entrance; and

(l) open the ballot box in the presence of those assembled, turn it upside down to empty it of anything, and then, immediately before polls open, lock it, or if locks and keys are not available, tape it securely.

(3) (a) If any election judge fails to appear on the morning of the election, or fails or refuses

to act, at least six qualified electors from the voting precinct who are present at the polling place at the hour designated by law for the opening of the polls shall fill the vacancy by appointing another qualified person from the voting precinct who is a member of the same political party as the judge who is being replaced to act as election judge.

(b) If a majority of the receiving election judges are present, they shall open the polls, even though the alternate judge has not arrived.

(4) (a) If it is impossible or inconvenient to hold an election at the polling place designated, the election judges, after having assembled at or as near as practicable to the designated place, and before receiving any vote, may move to the nearest convenient place for holding the election.

(b) If the judges move to a new polling place, they shall display a proclamation of the change and station a [~~police~~] peace officer or some other proper person at the original polling place to notify voters of the location of the new polling place.

(5) If the election judge who received delivery of the ballots produces packages of substitute ballots accompanied by a written and sworn statement of the election officer that the ballots are substitute ballots because the original ballots were not received, were destroyed, or were stolen, the election judges shall use those substitute ballots as the official election ballots.

(6) If, for any reason, none of the official or substitute ballots are ready for distribution at a polling place or, if the supply of ballots is exhausted before the polls are closed, the election judges may use unofficial ballots, made as nearly as possible in the form of the official ballot, until substitutes prepared by the election officer are printed and delivered.

(7) When it is time to open the polls, one of the election judges shall announce that the polls are open as required by Section 20A-1-302.

(8) (a) The election judges shall comply with the voting procedures and requirements of Title 20A, Chapter 3, in allowing people to vote.

(b) The election judges may not allow any person, other than election officials and those admitted to vote, within six feet of voting machines, voting booths, and the ballot box.

(c) Besides the election judges and watchers, the election judges may not allow more than four voters in excess of the number of voting booths provided within six feet of voting machines,

voting booths, and the ballot box.

(d) If necessary, the election judges shall instruct each voter about how to operate the voting device before the voter enters the voting booth.

(e) (i) If the voter requests additional instructions after entering the voting booth, two election judges may, if necessary, enter the booth and give the voter additional instructions.

(ii) In regular general elections and regular primary elections, the two election judges who enter the voting booth to assist the voter shall be of different political parties.

Section 5. Section **23-20-1** is amended to read:

23-20-1. Enforcement authority of conservation officers -- Seizure and disposition of property.

(1) Conservation officers of the division shall enforce the provisions of this title with the same authority and following the same procedures as other [~~peace~~] law enforcement officers.

(2) (a) Except as provided in Subsection (2)(b), conservation officers may search vehicles, camps, or other places where wildlife may be possessed or stored, if there is:

(i) probable cause to believe that wildlife illegally taken or held may be found; and

(ii) a reasonable likelihood the wildlife evidence will be lost, destroyed, or hidden before a search warrant may be obtained.

(b) An occupied or unoccupied dwelling may not be searched without a search warrant.

(c) Conservation officers shall seize any protected wildlife illegally taken or held.

(d) (i) Upon determination of a defendant's guilt by the court, the protected wildlife shall be confiscated by the court and sold or otherwise disposed of by the division.

(ii) Proceeds of the sales shall be deposited in the Wildlife Resources Account.

(iii) Migratory wildfowl may not be sold, but must be given to a charitable institution or used for other charitable purposes.

(3) (a) Materials and devices used for the unlawful taking or possessing of protected wildlife shall be seized, and upon a finding by the court that they were used in the unlawful taking or possessing of protected wildlife, the materials and devices shall be:

(i) confiscated by the court;

(ii) conveyed to the division; and

(iii) upon the expiration of time for appeal, sold at a public auction or otherwise disposed of by the division.

(b) Any proceeds from the sale of the material or device shall be deposited into the Wildlife Resources Account.

(4) (a) (i) As used in this Subsection (4), "owner" means a person, other than a person with a security interest, having a property interest in or title to a vehicle and entitled to the use and possession of a vehicle.

(ii) "Owner" includes a renter or lessee of a vehicle.

(b) (i) Conservation officers may seize and impound a vehicle used for the unlawful taking or possessing of protected wildlife for any of the following purposes:

(A) to provide for the safekeeping of the vehicle, if the owner or operator is arrested;

(B) to search the vehicle as provided in Subsection (2)(a) or as provided by a search warrant;

or

(C) to inspect the vehicle for evidence that protected wildlife was unlawfully taken or possessed.

(ii) The division shall store any seized vehicle in a public or private garage, state impound lot, or other secured storage facility.

(iii) A seized vehicle shall be released to the owner no later than 30 days after the date the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person who is charged with committing a felony under this title.

(c) (i) Upon a finding by a court that the person who used the vehicle for the unlawful taking or possessing of wildlife is guilty of a felony under this title, the vehicle may be:

(A) confiscated by the court;

(B) conveyed to the division; and

(C) upon expiration of time for appeal, sold at a public auction or otherwise disposed of by the division.

(ii) Any proceeds from the sale shall be deposited into the Wildlife Resources Account.

(iii) If the vehicle is not confiscated by the court, it shall be released to the owner.

(d) (i) The owner of a seized vehicle is liable for the payment of any impound fee if the person who used the vehicle for the unlawful taking or possessing of wildlife is found by a court to be guilty of a violation of this title.

(ii) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

(A) no charges are filed or all charges are dropped which involve the use of the vehicle for the unlawful taking or possessing of wildlife; or

(B) the person charged with using the vehicle for the unlawful taking or possessing of wildlife is found by a court to be not guilty.

Section 6. Section **23-20-1.5** is amended to read:

23-20-1.5. Powers of law enforcement section -- Employees.

(1) The chief and assistant chief of the law enforcement section, enforcement agents, and conservation officers of the law enforcement section within the Division of Wildlife Resources are vested with the powers of [peace] law enforcement officers throughout all of the counties of the state with exception of the power to serve civil process[. They] and:

(a) may serve criminal process [and], arrest, and prosecute violators of any law of this state; and

(b) shall have the same right as other [peace] law enforcement officers to require aid in executing their duties.

(2) The powers and duties [hereby] conferred by this section upon employees of the law enforcement section of the Division of Wildlife Resources shall be supplementary to and in no way a limitation on the powers and duties of other [peace] law enforcement officers in the state.

Section 7. Section **23-20-16** is amended to read:

23-20-16. Enforcement -- Procedure.

In enforcing the misdemeanor or felony provisions of this code, the peace officer shall follow the procedures and requirements of Title [~~77, Utah Code of Criminal Procedure~~] 53, Chapter 10, Peace Officer Classifications.

Section 8. Section **23-23-2** is amended to read:

23-23-2. Definitions.

As used in this chapter:

(1) "Cooperative wildlife management unit" or "unit" means a generally contiguous area of land open for hunting small game, waterfowl, or big game which is registered in accordance with this chapter and rules of the Wildlife Board.

(2) (a) "Cooperative wildlife management unit agent" means a person appointed by a landowner, landowner association, or landowner association operator to perform the functions described in Section 23-23-9.

(b) For purposes of this chapter, a cooperative wildlife management unit agent may not:

(i) be appointed by the division or the state;

(ii) be an employee or agent of the division or the state;

(iii) receive compensation from the division or the state; or

(iv) act as a peace officer or perform any duties of a peace officer without qualifying as a peace officer under Title [77] 53, Chapter [1a] 10, Peace Officer [~~Designation~~] Classifications.

(3) "Cooperative wildlife management unit authorization" means a card, label, ticket, or other identifying document authorizing the possessor to hunt small game or waterfowl in a cooperative wildlife management unit.

(4) "Cooperative wildlife management unit permit" means a permit authorizing the possessor to hunt big game in a cooperative wildlife management unit.

(5) "Division" means the Division of Wildlife Resources.

(6) "Landowner association" means a landowner or an organization of owners of private lands who operates a cooperative wildlife management unit.

(7) (a) "Landowner association operator" means a person designated by a landowner association to operate the cooperative wildlife management unit.

(b) For purposes of this chapter, a landowner association operator may not:

(i) be appointed by the division; or

(ii) be an employee or agent of the division.

Section 9. Section **26-6-27** is amended to read:

**26-6-27. Information regarding communicable or reportable disease confidential --
Exceptions.**

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or ~~[law enforcement or public safety]~~ peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78-14-3, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient. This subsection does not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease; and

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78-14-3, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care.

Section 10. Section **26-6a-1** is amended to read:

26-6a-1. Definitions.

For purposes of this chapter:

~~[(2)]~~ (1) "Designated agent" means a person or persons designated by an agency employing or utilizing emergency medical services providers as employees or volunteers to receive and distribute test results in accordance with this chapter.

~~[(3)]~~ (2) "Disability" means the event of becoming physically incapacitated from performing

any work for remuneration or profit.

[(1)] (3) "Disease" means Acquired Immunodeficiency Syndrome, Human Immunodeficiency Virus infection, Hepatitis B, Hepatitis B seropositivity, and any other infectious disease designated by the department.

(4) "Emergency medical services agency" means an agency, entity, or organization that employs or utilizes emergency medical services providers as employees or volunteers.

(5) "Emergency medical services provider" means an emergency medical technician as defined in Section 26-8-2, a peace officer as defined in [~~Section 77-1a-1~~] Title 53, Chapter 10, Peace Officer Classifications, local fire department personnel, or officials or personnel employed by the Department of Corrections or by a county jail, who provides prehospital emergency medical care for an emergency medical services agency either as an employee or as a volunteer.

(6) "Patient" means any individual cared for by an emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, and prisoners or persons in the custody of the Department of Corrections.

(7) "Significant exposure" means:

(a) contact of an emergency medical services provider's broken skin or mucous membrane with a patient's blood or bodily fluids other than tears or perspiration;

(b) that a needle stick, or scalpel or instrument wound has occurred in the process of caring for a patient; or

(c) exposure that occurs by any other method of transmission defined by the department as a significant exposure.

Section 11. Section **27-17-501** is amended to read:

27-17-501. Construction, operation, and maintenance of ports-of-entry by the Department of Transportation -- Function of ports-of-entry -- Checking and citation powers of port-of-entry agents.

(1) (a) The department shall construct ports-of-entry for the purpose of checking motor carriers, drivers, vehicles, and vehicle loads for compliance with state and federal laws including laws relating to:

- (i) driver qualifications;
- (ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;
- (iii) vehicle registration;
- (iv) fuel tax payment;
- (v) vehicle size, weight, and load;
- (vi) security requirements;
- (vii) Title 27, Chapter 17, Motor Carrier Safety Act;
- (viii) hazardous material as defined under 49 U.S.C. app. Sec. 1802;
- (ix) livestock transportation; and
- (x) safety requirements.

(b) The ports-of-entry shall be located on state highways at sites determined by the department.

(2) (a) The ports-of-entry shall be operated and maintained by the department.

(b) A port-of-entry agent may check, inspect, or test drivers, vehicles, and vehicle loads for compliance with state and federal laws specified in Subsection (1).

(3) (a) A port-of-entry agent, in whose presence an offense described in this section is committed, may:

- (i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;
- (ii) request and administer chemical tests to determine blood alcohol concentration in compliance with Section 41-6-44.3;
- (iii) place a driver out-of-service in accordance with Section 53-3-417; and
- (iv) serve a driver with notice of the Driver License Division of the Department of Public Safety's intention to disqualify the driver's privilege to drive a commercial motor vehicle in accordance with Section 53-3-418.

(b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a port-of-entry agent lacking peace officer designation under Title ~~[77]~~ 53, Chapter ~~[1a]~~ 10, Peace Officer Classifications.

Section 12. Section **30-6-1** is amended to read:

30-6-1. Definitions.

As used in this chapter:

(1) "Abuse" means attempting to cause, or intentionally or knowingly causing to an adult or minor physical harm or intentionally placing another in fear of imminent physical harm.

(2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:

- (a) is or was a spouse of the other party;
- (b) is or was living as if a spouse of the other party;
- (c) is related by blood or marriage to the other party;
- (d) has one or more children in common with the other party; or
- (e) resides or has resided in the same residence as the other party.

(3) Notwithstanding Subsection (2), "cohabitant" does not include:

- (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
- (b) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.

(4) "Court clerk" means a district court clerk or juvenile court clerk.

(5) "Department" means the Department of Human Services.

(6) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(7) "Ex parte protective order" means an order issued without notice to the defendant in accordance with this chapter.

(8) "Foreign protective order" means a protective order issued by another state, territory, or possession of the United States, tribal lands of the United States, the Commonwealth of Puerto Rico, or the District of Columbia shall be given full faith and credit in Utah, if the protective order is similar to a protective order issued in compliance with Title 30, Chapter 6, Cohabitant Abuse Act, or Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and includes the following requirements:

- (a) the requirements of due process were met by the issuing court, including subject matter and personal jurisdiction;
- (b) the respondent received reasonable notice; and

(c) the respondent had an opportunity for a hearing regarding the protective order.

(9) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(10) "Peace officer" means those persons specified in [~~Section 77-1a-1~~] Title 53, Chapter 10, Peace Officer Classifications.

(11) "Protective order" means a restraining order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner has given notice in accordance with this chapter.

Section 13. Section **30-6-4.1** is amended to read:

30-6-4.1. Continuing duty to inform court of other proceedings -- Effect of other proceedings.

(1) At any hearing in a proceeding to obtain an order for protection, each party has a continuing duty to inform the court of each proceeding for an order for protection, any civil litigation, each proceeding in juvenile court, and each criminal case involving either party, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.

(2) (a) An order for protection issued pursuant to this chapter is in addition to and not in lieu of any other available civil or criminal proceeding.

(b) A petitioner is not barred from seeking a protective order because of other pending proceedings.

(c) A court may not delay granting relief under this chapter because of the existence of a pending civil action between the parties.

(3) A petitioner may omit his or her address from all documents filed with the court under this chapter, but shall separately provide the court with a mailing address that is not to be made part of the public record, but that may be provided to a [~~constable or other law enforcement~~] peace officer or entity for service of process.

Section 14. Section **32A-10-202** is amended to read:

32A-10-202. Application and renewal requirements.

(1) A person seeking an on-premise beer retailer license under this chapter shall file a written application with the department, in a form prescribed by the department. It shall be accompanied by:

- (a) a nonrefundable \$300 application fee;
 - (b) an initial license fee of \$100, which is refundable if a license is not granted;
 - (c) written consent of the local authority or a license to sell beer at retail for on-premise consumption granted by the local authority under Section 32A-10-101;
 - (d) a copy of the applicant's current business license;
 - (e) for applications made on or after July 1, 1991, evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-10-201 (3), (4), and (5), the application shall be processed in accordance with those subsections;
 - (f) a bond as specified by Section 32A-10-205;
 - (g) a floor plan of the premises, including consumption areas and the area where the applicant proposes to keep, store, and sell beer;
 - (h) evidence that the on-premise beer retailer licensee is carrying public liability insurance in an amount and form satisfactory to the department;
 - (i) for those licensees that sell more than \$5,000 of beer annually, evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$100,000 per occurrence and \$300,000 in the aggregate;
 - (j) a signed consent form stating that the on-premise beer retailer licensee will permit any authorized representative of the commission, department, council, or any ~~law enforcement~~ peace officer unrestricted right to enter the licensee premises;
 - (k) in the case of a corporate applicant, proper verification evidencing that the person or persons signing the on-premise beer retailer licensee application are authorized to so act on the corporation's behalf; and
 - (l) any other information the department may require.
- (2) All on-premise beer retailer licenses expire on the last day of February of each year,

except that all on-premise beer retailer licenses obtained before the last day of February 1991 expire on the last day of February 1992. Persons desiring to renew their on-premise beer retailer license shall submit a renewal fee of \$100 and a completed renewal application to the department no later than January 31. Failure to meet the renewal requirements shall result in an automatic forfeiture of the license, effective on the date the existing license expires. Renewal applications shall be in a form as prescribed by the department.

(3) If any beer retailer licensee does not immediately notify the department of any change in ownership of the beer retailer, or in the case of a Utah corporate owner of any change in the officers or directors, the commission may suspend or revoke that license.

(4) If the applicant is a county, municipality, or other political subdivision, it need not meet the requirements of Subsections (1)(a), (b), (c), (d), and (f).

(5) Only one state on-premise beer retailer license is required for each building or resort facility owned or leased by the same applicant. Separate licenses are not required for each retail beer dispensing outlet located in the same building or on the same resort premises owned or operated by the same applicant.

Section 15. Section **32A-11-102** is amended to read:

32A-11-102. Application and renewal requirements.

(1) A person seeking a beer wholesaling license under this chapter shall file a written application with the department, in a form prescribed by the department. It shall be accompanied by:

- (a) a nonrefundable \$100 application fee;
- (b) an initial license fee of \$300, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) a bond as specified in Section 32A-11-105;
- (f) evidence that the applicant is carrying public liability insurance in an amount and form satisfactory to the department;
- (g) a signed consent form stating that the licensee will permit any authorized representative

of the commission, department, council, or any ~~[law enforcement]~~ peace officer unrestricted right to enter the licensed premises;

(h) a statement of the brands of beer the applicant is authorized to sell and distribute;

(i) a statement of all geographical areas in which the applicant is authorized to sell and distribute beer; and

(j) any other documents and evidence as the department may direct.

(2) Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of said authority.

(3) (a) All beer wholesaling licenses expire on December 31 of each year. Persons desiring to renew their beer wholesaling license shall submit a renewal fee of \$300 and a completed renewal application to the department no later than November 30 of the year the license expires. Failure to meet the renewal requirements results in an automatic forfeiture of the license effective on the date the existing license expires. Renewal applications shall be in a form prescribed by the department.

(b) The annual renewal fee prescribed in this Subsection (3) is independent of any like license fee which may be assessed by the local authority of the city or county in which the wholesaler's warehouse is located. Any local fees may not exceed \$300. Payment of local fees shall be made directly to the local authority assessing them.

(4) If any licensee does not immediately notify the department of any change in ownership of the licensee, or in the case of a Utah corporate owner of any change in the corporate officers or directors, the commission may suspend or revoke that license.

Section 16. Section **41-3-105** is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge

the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be ~~[peace]~~ law enforcement officers certified by peace officer standards and training as required by Section ~~[77-1a-1]~~ 53-10-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

- (i) this chapter;
- (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- (iii) any law concerning motor vehicle fraud; or
- (iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4) (a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

- (i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which he intends to conduct business;
- (ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;
- (iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;
- (iv) a complete description of the principal place of business, including:
 - (A) the municipality, with the street and number, if any;
 - (B) if located outside of any municipality, a general description so that the location can be determined; and
 - (C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business; and
- (v) if the application is for a new motor vehicle dealer's license, the name of each motor

vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the names and addresses of the individuals who will act as salespersons under authority of the license.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah", to authenticate the acts of his office.

(6) (a) The administrator may require that the licensee erect or post signs or devices on his principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with his business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, their lettering and other details, and their location.

(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be mailed to each member at his last-known address not fewer than five days prior to the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit his driver's license and the registration card issued for the vehicle and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

- (d) investigate traffic accidents and secure testimony of witnesses or persons involved; and
- (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

Section 17. Section **41-6-1** is amended to read:

41-6-1. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" is used as defined in Section 41-22-2.

(3) "Authorized emergency vehicle" means fire department vehicles, police vehicles, ambulances, and other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices.

(5) "Bus" means every motor vehicle designed for carrying more than 15 passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(6) "Controlled-access highway" means every highway, street, or roadway to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the public authority having jurisdiction over the highway, street, or roadway.

(7) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(8) "Department" means the Department of Public Safety.

(9) "Divided highway" means a highway divided into two or more roadways by unpaved intervening space or by a physical barrier or by a clearly indicated dividing section constructed to impede vehicular traffic.

(10) "Electric assisted bicycle" means a moped with an electric motor with a power output of not more than 1,000 watts, which is not capable of propelling the device at a speed of more than 20 miles per hour on level ground, and which is not capable of increasing the speed of the device when human power is used to propel the device at more than 20 miles per hour.

(11) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(12) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(13) "Flammable liquid" means any liquid which has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(14) "Gross weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(15) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(16) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(a) Where a highway includes two roadways 30 feet or more apart, every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(b) The junction of an alley with a street or highway is not an intersection.

(17) "Local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(18) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(19) "Mobile home" means:

(a) a trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (19)(a), but which is instead used permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(20) "Moped" means a motor-driven cycle having both pedals to permit propulsion by human power, and a motor which produces not more than two brake horsepower and which is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged. A moped includes an electric assisted bicycle.

(21) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs.

(22) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(23) "Motor-driven cycle" means every motorcycle and motor scooter, moped, electric

assisted bicycle, and every motorized bicycle having an engine with less than 150 cubic centimeters displacement or having a motor which produces not more than five horsepower.

(24) "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(25) "Off-highway implement of husbandry" is used as defined under Section 41-22-2.

(26) "Off-highway vehicle" is used as defined under Section 41-22-2.

(27) "Operator" means any person who is in actual physical control of a vehicle.

(28) "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(29) "Peace officer" means [~~every law enforcement~~] any peace officer authorized under [~~Section 77-1a-1~~] Title 53, Chapter 10, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(30) "Pedestrian" means any person afoot.

(31) "Person" means every natural person, firm, copartnership, association, or corporation.

(32) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and is ordinarily used for transporting long or irregular shaped loads such as poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(33) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(34) "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

(35) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the

approach of a railroad train.

(36) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(37) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity which give rise to danger of collision unless one grants precedence to the other.

(38) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles. If a highway includes two or more separate roadways, roadway refers to any roadway separately but not to all roadways collectively.

(39) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(40) "School bus" means every motor vehicle that complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses" and is used to transport school children to or from school or school activities. This definition does not include vehicles operated by common carriers in transportation of school children to or from school or school activities.

(41) "Semitrailer" means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

(42) "Shoulder area" means that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices," or that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and lateral support.

(43) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(44) "Solid rubber tire" means every tire of rubber or other resilient material which does not

depend upon compressed air for the support of the load.

(45) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(46) "Stop" when required means complete cessation from movement.

(47) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or when in compliance with the directions of a peace officer or official traffic-control device.

(48) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

(49) "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(50) "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(51) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(52) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

(53) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

(54) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

Section 18. Section **41-6-103** is amended to read:

41-6-103. Standing or parking vehicles -- Restrictions and exceptions.

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a [police] peace officer or official traffic-control device, no person shall:

(1) Stop, stand, or park a vehicle:

(a) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(b) on a sidewalk;

(c) within an intersection;

(d) on a crosswalk;

(e) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(f) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(g) upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(h) on any railroad tracks;

(i) on any controlled-access highway;

(j) in the area between roadways of a divided highway, including crossovers; or

(k) any place where official traffic-control devices prohibit stopping.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(a) in front of a public or private driveway;

(b) within 15 feet of a fire hydrant;

(c) within 20 feet of a crosswalk at an intersection;

(d) within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

(e) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;

or

(f) at any place where official traffic-control devices prohibit standing.

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

- (a) within 50 feet of the nearest rail of a railroad crossing; or
- (b) at any place where official traffic-control devices prohibit parking.

(4) No person shall move a vehicle not lawfully under [such] the person's control into any prohibited area or an unlawful distance from the curb.

Section 19. Section **41-6-114** is amended to read:

41-6-114. Destructive or injurious materials on highways, parks, recreation areas, waterways, or other public or private lands -- Throwing lighted material from moving vehicle -- Enforcement officers -- Litter receptacles required.

~~[(a)]~~ (1) It shall be unlawful for any person to throw, deposit, or discard, or to permit to be dropped, thrown, deposited, or discarded upon any public road, highway, park, recreation area, or other public or private land, or waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of [such] the land in the state ~~[of Utah]~~ whether under private, state, county, municipal, or federal ownership without the permission of the owner~~[-]~~ or person having control or custody of the land.

~~[(b)]~~ (2) Any person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, upon any public road, highway, park, recreation area, or other public or private land or waterway any destructive, injurious, or unsightly material shall:

- (a) immediately remove the ~~[same]~~ material or cause it to be removed; and
- (b) deposit the material in a receptacle designed to receive [such] the material.

~~[(c)]~~ (3) Any person distributing commercial handbills, leaflets, or other advertising shall take whatever measures are reasonably necessary to keep [such] the material from littering public or private property or public roadways.

~~[(d)]~~ (4) Any person removing a wrecked or damaged vehicle from a public road, highway, park, recreation area, or other public or private land shall remove any glass or other injurious substance dropped from the vehicle upon the road or highway or in the park, recreation area, or other

public or private land ~~[from such vehicle]~~.

~~[(e)]~~ (5) It shall be unlawful to throw any lighted material from a moving vehicle.

~~[(f)]~~ (6) ~~[Any]~~ Except as provided in Section 27-12-146, any person transporting loose cargo by truck, trailer, or other motor vehicle shall secure ~~[such]~~ the cargo in ~~[such]~~ a reasonable manner ~~[as will]~~ to prevent the cargo from littering or spilling on both public and private property or public roadways ~~[except as provided in Section 27-12-146]~~.

~~[(g)]~~ (7) Any person in charge of a construction or demolition site shall take ~~[those]~~ reasonable steps ~~[as are reasonably necessary]~~ to prevent the accumulation of litter at the construction or demolition site.

~~[(h)]~~ (8) (a) Officers of the Division of Wildlife Resources and Parks and Recreation, ~~[police]~~ peace officers of incorporated cities and towns, sheriffs and their deputies, deputy state fire wardens, state capitol security officers, and other officers of the state ~~[of Utah]~~, within their jurisdiction shall enforce the provisions of this section.

(b) Each ~~[such]~~ officer in Subsection (8)(a) is empowered to issue citations to any person violating any of the provisions of this section~~[-]~~ and may serve and execute all warrants, citations, and other process issued by any court in enforcing this section.

~~[(i)]~~ (9) Each operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of industrial firms, marina, boat launching area, boat moorage and fueling station, public and private pier, beach, and bathing area shall maintain sufficient litter receptacles on ~~[said]~~ the premises to accommodate the litter that accumulates ~~[there]~~.

~~[(j)]~~ (10) Cities and towns within their corporate limits and counties outside of incorporated cities and towns shall have power to enact local ordinances to ~~[effectuate and]~~ carry out ~~[each and every provision]~~ the provisions of this section.

Section 20. Section **41-6-117.5** is amended to read:

41-6-117.5. Permit to operate vehicle in violation of equipment regulations.

~~[(a)]~~ (1) The department may issue a permit which will allow operation of a vehicle in violation of the provisions of this chapter or in violation of departmental regulations.

~~[(b)] (2)~~ The permit shall be carried by the driver or in the vehicle and shall be displayed upon demand of a magistrate or ~~[police]~~ peace officer.

~~[(c)] (3) (a)~~ In issuing ~~[such]~~ the permits in Subsection (1), the department may limit the time, manner, or duration of operation and may otherwise prescribe conditions of operation that are necessary to protect the safety of highway users or efficient movement of traffic. ~~[Said]~~

(b) Any conditions shall be stated on the permit and a person shall not violate them.

Section 21. Section **41-6-153** is amended to read:

41-6-153. Warning signal around disabled vehicle -- Time and place.

(1) (a) Whenever any truck, bus, truck-tractor, trailer, semitrailer, or pole trailer 80 inches or more in over-all width or 30 feet or more in over-all length is stopped upon a roadway or adjacent shoulder, the driver shall immediately actuate vehicular hazard warning signal lamps meeting the requirements of Section 41-6-133. ~~[Such]~~

(b) The signal lights need not be displayed by a vehicle:

(i) parked lawfully in an urban district~~[, or]~~;

(ii) stopped lawfully to receive or discharge passengers~~[, or]~~;

(iii) stopped to avoid conflict with other traffic or to comply with the directions of a ~~[police]~~ peace officer or an official traffic-control device~~[-]~~; or

(iv) while the devices specified in Subsections ~~[(b)] (2)~~ through ~~[(b)] (7)~~ are in place.

~~[(b) Whenever]~~ (2) Except as provided in Subsection (3), whenever any vehicle of a type referred to in Subsection ~~[(a)] (1)~~ is disabled, or stopped for more than ~~[10]~~ ten minutes, upon a roadway outside of an urban district at any time when lighted lamps are required, the driver of ~~[such]~~ the vehicle shall display the following warning devices ~~[except as provided in Subsection (c)]~~:

~~[(1) A]~~ (a) a lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching traffic~~[-]~~; and

~~[(2) As]~~ (b) as soon thereafter as possible but in any event within the burning period of the fusee (15 minutes), the driver shall place three liquid-burning flares (pot torches), or three lighted red electric lanterns, or three portable red emergency reflectors on the roadway in the following

order:

~~[(A)]~~ (i) one approximately 100 feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane;

~~[(B)]~~ (ii) one approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by ~~[such]~~ the vehicle; and

~~[(C)]~~ (iii) one at the traffic side of the disabled vehicle not less than ~~[10]~~ ten feet rearward or forward ~~[thereof]~~ of the disabled vehicle in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with ~~[Paragraph (A) of this]~~ Subsection (2)(b)(i), it may be placed for this purpose.

~~[(c)]~~ (3) Whenever any vehicle referred to in this section is disabled, or stopped for more than ~~[10]~~ ten minutes~~[-]~~:

(a) within 500 feet of a curve, hillcrest, or other obstruction to view, the warning device in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than 100 feet nor more than 500 feet from the disabled vehicle~~[-]~~;

~~[(d)]~~ (b) ~~[Whenever any vehicle of a type referred to in this section is disabled, or stopped for more than 10 minutes,]~~ upon any roadway of a divided highway during the time lighted lamps are required, the appropriate warning devices prescribed in Subsections ~~[(b)]~~ (2) and ~~[(c)]~~ (4) shall be placed as follows:

~~[(one)]~~ (i) one at a distance of approximately 200 feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane;

(ii) one at a distance of approximately 100 feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane;

(iii) one at the traffic side of the vehicle and approximately ~~[10]~~ ten feet from the vehicle in the direction of the nearest approaching traffic~~[-]~~; or

(c) upon a roadway outside of an urban district or upon the roadway of a divided highway at any time when lighted lamps are not required by Section 41-6-118, the driver of the vehicle shall display two red flags as follows:

(i) if traffic on the roadway moves in two directions, one flag shall be placed approximately 100 feet to the rear and one flag approximately 100 feet in advance of the vehicle in the center of the lane occupied by such vehicle; or

(ii) upon a one-way roadway, one flag shall be placed approximately 100 feet and one flag approximately 200 feet to the rear of the vehicle in the center of the lane occupied by such vehicle.

~~[(e)]~~ (4) (a) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed gas is disabled, or stopped for more than ~~[10]~~ ten minutes, at any time and place mentioned in Subsection ~~[(b), (c) or (d)]~~ (2) or (3), the driver of ~~[such]~~ the vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner as specified ~~[therein]~~ in Subsections (2) or (3).

(b) Flares, fusees, or signals produced by flame ~~[shall]~~ may not be used as warning devices for vehicles of the type mentioned in this Subsection (4) nor for vehicles using compressed gas as a fuel.

~~[(f)]~~ (5) The warning devices described in Subsections ~~[(b)]~~ (2) through ~~[(e)]~~ (4) need not be displayed where there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet.

~~[(g)]~~ Whenever any vehicle described in this section is disabled, or stopped for more than 10 minutes, upon a roadway outside of an urban district or upon the roadway of a divided highway at any time when lighted lamps are not required by Section 41-6-118, the driver of the vehicle shall display two red flags as follows:]

~~[(1)]~~ If traffic on the roadway moves in two directions, one flag shall be placed approximately 100 feet to the rear and one flag approximately 100 feet in advance of the vehicle in the center of the lane occupied by such vehicle:]

~~[(2)]~~ Upon a one-way roadway, one flag shall be placed approximately 100 feet and one flag approximately 200 feet to the rear of the vehicle in the center of the lane occupied by such vehicle:]

~~[(h)]~~ When (6) At any time and place that any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder ~~[at any time and place hereinbefore mentioned],~~

the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.

[(i)] (7) The flares, fusees, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the applicable requirements of Section 41-6-152 [applicable thereto].

Section 22. Section **41-6-167** is amended to read:

41-6-167. Notice to appear in court -- Contents -- Promise to comply -- Signing -- Release from custody -- Official misconduct.

[(a)] (1) Upon any violation of this act punishable as a misdemeanor, whenever a person is immediately taken before a magistrate as hereinbefore provided, the [police] peace officer shall prepare, in triplicate or more copies, a written notice to appear in court containing:

- (a) the name and address of [such] the person[-];
- (b) the number, if any, of [his] the person's operator's license[-];
- (c) the registration number of [his] the person's vehicle[-];
- (d) the offense charged[-]; and
- (e) the time and place [~~when and where such~~] the person shall appear in court.

[(b)] (2) The time specified in [said] the notice to appear must be at least five days after [such] the arrest of the person unless the person [~~arrested shall demand~~] demands an earlier hearing.

[(c)] (3) The place specified in [said] the notice to appear [must] shall be made before a magistrate [~~within~~] of competent jurisdiction in the county in which the [~~offense charged is alleged to have been committed and who has jurisdiction of such offense~~] alleged violation occurred.

[(d)] (4) (a) [~~The arrested person, in~~] In order to secure release as provided in this section, [~~must give his written~~] the arrested person shall promise [~~satisfactory to the arresting officer so~~] to appear in court by signing at least one copy of the written notice prepared by the arresting officer.

(b) The arresting officer shall immediately:

(i) deliver a copy of [such] the notice to the person promising to appear[-. Thereupon, said officer shall forthwith]; and

(ii) release the person arrested from custody.

~~[(e)]~~ (5) Any officer violating any of the provisions of this section shall be:

(a) guilty of misconduct in office; and ~~[shall be]~~

(b) subject to removal from office.

Section 23. Section **41-6-169** is amended to read:

41-6-169. Arrests without warrants.

The foregoing provisions of this act shall govern all ~~[police]~~ peace officers in making arrests without warrant for violations of this act, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade.

Section 24. Section **41-6-172** is amended to read:

41-6-172. Improper disposition or cancellation of notice to appear or traffic citation -- Official misconduct -- Misdemeanor.

~~[(a)]~~ (1) It shall be unlawful and official misconduct for any ~~[police]~~ peace officer or other officer or public employee to dispose of a notice to appear or of any traffic citation without the consent of the magistrate before whom the person was to appear.

~~[(b)]~~ (2) Any person who cancels or solicits the cancellation of any notice to appear or any traffic citation, in any manner other than as provided by law, shall be guilty of a misdemeanor.

Section 25. Section **41-12a-501** is amended to read:

41-12a-501. Post-accident security.

(1) (a) Unless excepted under Subsection (2), the operator of a motor vehicle involved in an accident in the state and any owner who has not previously satisfied the requirement of security under Section 41-12a-301 shall file post-accident security with the department for the benefit of persons obtaining judgments against the operator on account of bodily injury, death, or property damage caused by the accident.

(b) The security shall be in an amount determined by the department to be sufficient to satisfy judgments arising from bodily injury, death, or property damage resulting from the accident that may be recovered against the operator, but may not exceed the minimum single limit under Subsection 31A-22-304(2).

(c) The department shall determine the amount of post-accident security on the basis of reports and other evidence submitted to the department by interested parties, including officials investigating the accident.

(d) In setting the amount of post-accident security, the department may not take into account alleged damages resulting from pain and suffering.

(e) Persons who fail to file required post-accident security are subject to the penalties under Subsection (3).

(2) The operator is exempted from the post-accident requirement under Subsection (1) if any of the following conditions are satisfied:

(a) No bodily injury, death, or damage to the property of one person in excess of the damage limit specified under Section 41-6-31 resulted from the accident.

(b) No injury, death, or property damage was suffered by any person other than the owner or operator.

(c) The owner of the motor vehicle was in compliance with the owner's security requirement under Section 41-12a-301 at the time of the accident and the operator had permission from the owner to operate the motor vehicle.

(d) The operator was in compliance with the operator's security requirement under Section 41-12a-301 at the time of the accident.

(e) The operator has filed satisfactory evidence with the department that the operator has been released from liability, has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident and is not in default on that agreement.

(f) The motor vehicle involved in the accident was operated by a nonresident who had an insurance policy or bond covering the accident, but not fully complying with the policy provision requirements under Section 31A-22-302, if the policy or bond is sufficient to provide full recovery for claimants and the policy or bond is issued by an insurer licensed in the state.

(g) The operator at the time of the accident was operating a motor vehicle owned or leased

by the operator's employer and driven with the employer's permission.

(h) Evidence as to the extent of injuries or property damage caused by the accident has not been submitted by or on behalf of any person affected by the accident within six months following the date of the accident.

(i) The motor vehicle was legally parked at the time of the accident.

(j) The motor vehicle was an emergency vehicle acting in the line of duty at the time of the accident.

(k) The motor vehicle involved in the accident is owned by the United States, this state, or any political subdivision of this state, if the operator was using the vehicle with the permission of the owner.

(l) The motor vehicle was legally stopped at a stop sign, traffic signal, or at the direction of a [~~police~~] peace officer at the time of the accident.

(3) (a) If an operator who is required to file post-accident security under Subsection (1) does not do so within ten days after receiving notice of the requirement of security, the department shall suspend the driver's license of the operator and all registrations of the owner, if he is a resident of the state.

(b) If the operator is not a resident of Utah, the department shall suspend the privilege of operating a motor vehicle within the state and of using, in the state, any owned motor vehicle.

(c) Notice of these suspensions shall be sent to the owner or operator no less than 15 days prior to the effective date of the suspension.

Section 26. Section **41-22-16** is amended to read:

41-22-16. Authorized peace officers -- Arrest provisions.

(1) Any [~~law enforcement~~] peace officer authorized under Title [~~77~~] 53, Chapter [~~1a~~] 10, Peace Officer Classifications, may enforce the provisions of this chapter and the rules promulgated under this chapter.

(2) Whenever any person is arrested for any violation of the provisions of this chapter or of the rules promulgated under this chapter, the procedure for the arrest is the same as outlined in Sections 41-6-166, 41-6-167, 41-6-168, and 41-6-169.

Section 27. Section **49-4-103** is amended to read:

49-4-103. Definitions.

As used in this chapter:

(1) (a) "Compensation," "salary," or "wages" means the total amount of payments which are currently includable in gross income made by an employer to an employee covered under the retirement system for services rendered to the employer as base income. Base income shall be determined prior to any salary deductions or reductions for any salary deferral or pretax benefit programs authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, such as a residence, use of equipment or uniform or travel allowances;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by an employer under this plan or under any other employee benefit plan maintained by an employer for the benefit of a participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

(a) Except as provided in Subsection (2)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

(b) In cases where the employing unit provides acceptable documentation to the board, the

limitation in Subsection (2)(a) may be exceeded if:

(i) the member has transferred from another employing unit; or

(ii) the member has been promoted to a new position.

(3) "Full-time service" means 2,080 hours a year.

(4) "Line-of-duty death" means a death resulting from external force, violence, or disease occasioned by an act of duty as a [~~police~~] peace officer or other public safety member.

(5) (a) "Participating service" means public safety service rendered during which a person was a member of this system as well as any of the terminated systems during which the person was paid compensation upon which member contributions were taken.

(b) Participating service also means public safety service rendered for an employer covered by the retirement system and standing to the credit of a member as of June 30, 1969, who transferred to coverage under the public safety retirement system on July 1, 1969.

(6) (a) "Public safety service" means full-time paid service rendered by:

(i) [~~peace~~] law enforcement officers in accordance with Section [~~77-1a-1~~] 53-10-103;

(ii) correctional officers in accordance with Section [~~77-1a-2~~] 53-10-104; and

(iii) special function officers in accordance with Subsection 49-4-203(5) and Section [~~77-1a-4~~] 53-10-105.

(b) Subsection (6)(a) does not apply to any person who became a member of the system prior to January 1, 1984.

(7) "Years of service" or "service years" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which an employee performed services for an employer or employers, including time the employee was absent in the service of the United States government on military duty.

Section 28. Section **49-4-203** is amended to read:

49-4-203. Eligibility for membership in the system.

All employees who perform covered public safety services for any employing unit, except those withdrawing from coverage as provided by this chapter, shall become members of the retirement system as follows:

(1) Any employee who is employed to perform public safety services for an employer covered by this chapter on or after July 1, 1969, shall become a member of the system effective on the date of employment.

(2) (a) Any employee engaged in performing public safety services for a department or political subdivision on the date it becomes a participant in the system under this chapter shall become a member of the system as of the date of coverage. Each new public safety employee of the covered unit shall thereafter become a member of the system effective on the date of employment.

(b) In cities, counties, or other employing units of government that have public safety and fire fighter personnel where cross-training and duty is required, the employing unit may enroll those dual purpose personnel in the retirement system in which the greatest amount of duty time is contemplated and actually worked. The personnel shall be full-time public safety or fire fighter employees of the employing unit.

(3) (a) The board may by rule establish other peace officer groups for purposes of:

- (i) recommending eligibility for coverage under this system; and
- (ii) recommending contribution rates.

(b) (i) Each employing unit covered by this system shall annually submit to the retirement office a schedule indicating the positions to be covered under this system in accordance with Subsection 49-4-103(6). The retirement office may require documentation to justify the inclusion of any position under this system.

(ii) If there is a dispute between the retirement office and an employing unit or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(iii) (A) The Peace Officer Standards and Training Council's authority to decide eligibility questions for peace officers is limited to claims for coverage under the Public Safety Retirement System for time periods subsequent to July 1, 1989.

(B) A decision of the Peace Officer Standards and Training Council may not be applied to credit earned in another system prior to July 1, 1989.

(C) Except as provided under Subsection (3)(b)(iii)(D), a decision of the Peace Officer

Standards and Training Council granting an individual or a position coverage under the Public Safety Retirement System may only be applied prospectively from the date of that decision.

(D) A decision of the Peace Officer Standards and Training Council granting an individual or a position coverage under the Public Safety Retirement System may be applied retroactively only if:

(I) the employing unit covered other similarly situated employees under the Public Safety Retirement System during the time period in question; and

(II) the employee otherwise meets all eligibility requirements for membership in the Public Safety Retirement System.

(c) (i) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the retirement office and an employing unit or employee over a position to be covered under this system.

(ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

(4) Employees who have performed public safety service and who then transfer or are promoted to administration positions not covered by this system shall continue to earn public safety service credit under this chapter as long as they remain employed in the same department.

(5) Unless the Legislature fails to provide funding in the appropriations act for the inclusion of special function officers in the contributory system, special function officers shall be eligible for membership in the contributory system if approved by the Peace Officer Standards and Training Council.

(6) (a) The Peace Officer Standards and Training Council, in determining disputes between the retirement office and an employing unit or employee over a position to be covered under this system, shall determine that to be eligible for membership in this system the employee:

(i) is required as a duty of employment to serve in a position that may place the employee at risk to life and personal safety; and

(ii) is required to complete training as provided in Subsection [~~77-1a-1(3), 77-1a-2(3), or 77-1a-4(3)~~] 53-10-103(4), 53-10-104(3), or 53-10-105(3).

(b) If an employee satisfies the requirements of Subsection (6)(a), the Peace Officer Standards and Training Council shall consider, in determining eligibility for membership in the system, whether the employee:

- (i) performs duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- (ii) performs duties that consist primarily of providing community protection; and
- (iii) is required to respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(7) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (6) in making its recommendation.

(8) A final order of the Peace Officer Standards and Training Council regarding a dispute is final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures Act.

(9) If a local law enforcement agency's law enforcement officers are not included in the Public Safety Retirement System under Title 49, Chapter 4, Public Safety Retirement Act, or Title 49, Chapter 4a, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those officers who may otherwise qualify for membership in the system shall, at the discretion of the respective municipality, remain in their current retirement system.

Section 29. Section **49-4a-103** is amended to read:

49-4a-103. Definitions.

As used in this chapter:

(1) (a) "Compensation," "salary," or "wages" means the total amount of payments which are currently includable in gross income made by an employer to an employee for services rendered to the employer as base income for the position covered under the retirement system. Base income shall be determined prior to any salary deductions or reductions for any salary deferral or pretax benefit programs authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

- (i) overtime;
- (ii) sick pay incentives;
- (iii) retirement pay incentives;
- (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform or travel allowances;
- (v) a lump-sum payment or special payment covering accumulated leave; and
- (vi) all contributions made by an employer under this plan or under any other employee benefit plan maintained by an employer for the benefit of a participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

(a) Except as provided in Subsection (2)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

(b) In cases where the employing unit provides acceptable documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

- (i) the member has transferred from another employing unit; or
 - (ii) the member has been promoted to a new position.
- (3) "Full-time service" means 2,080 hours a year.
- (4) "Line-of-duty death" means a death resulting from external force, violence, or disease occasioned by an act of duty as a [policeman] peace officer or other public safety member.
- (5) "Public safety service" means full-time paid service rendered by:
- (a) [peace] law enforcement officers in accordance with Section [77-1a-1] 53-10-103;
 - (b) correctional officers in accordance with Section [77-1a-2] 53-10-104; and
 - (c) special function officers in accordance with Subsection 49-4a-203(7) and Section

[77-1a-4] 53-10-105.

(6) "Years of service" or "service years" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which an employee performed services for an employer or employers, including time the employee was absent in the service of the United States government on military duty.

Section 30. Section **49-4a-203** is amended to read:

49-4a-203. Eligibility for membership in the system.

(1) Any person entering full-time employment in a state public safety position after the effective date of this chapter shall automatically become a member of the noncontributory retirement system.

(2) Any person in full-time employment in a state public safety position prior to the effective date of this system may either become a member of this noncontributory system or remain a member of the Public Safety Retirement System established under Title 49, Chapter 4, Public Safety Retirement Act, by following the procedures established by the board pursuant to this chapter.

(3) (a) Membership in the noncontributory system is optional for political subdivisions, except that once a political subdivision elects to participate in the noncontributory system that election is final and binding upon the political subdivision.

(b) Persons entering public safety employment with political subdivisions that elect to participate in the noncontributory system after the effective date of this chapter shall automatically become members of the noncontributory retirement system.

(c) Any person in full-time employment with the political subdivision prior to that election to participate in this system may either become a member of the noncontributory retirement system or remain a member of the Public Safety Retirement System established under Title 49, Chapter 4, by following the procedures established by the board pursuant to this chapter.

(4) In cities, counties, or other employing units of government that have public safety and fire fighter personnel where cross-training and duty is required, the employing unit may enroll those dual purpose personnel in the retirement system in which the greatest amount of duty time is contemplated and actually worked in accordance with Subsection (3). The personnel shall be

full-time public safety or fire fighter employees of the employing unit. New public safety employing units after July 1, 1989, are covered under this chapter.

(5) (a) The board may by rule establish other peace officer groups for purposes of:

(i) recommending eligibility for coverage under this system; and

(ii) recommending contribution rates.

(b) (i) Each employing unit covered by this system shall annually submit to the retirement office a schedule indicating the positions to be covered under this system in accordance with Subsection 49-4a-103(5). The retirement office may require documentation to justify the inclusion of any position under this system.

(ii) If there is a dispute between the retirement office and an employing unit or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(iii) (A) The Peace Officer Standards and Training Council's authority to decide eligibility questions for peace officers is limited to claims for coverage under the Public Safety Retirement System for time periods subsequent to July 1, 1989.

(B) A decision of the Peace Officer Standards and Training Council may not be applied to credit earned in another system prior to July 1, 1989.

(C) Except as provided under Subsection (5)(b)(iii)(D), a decision of the Peace Officer Standards and Training Council granting an individual or a position coverage under the Public Safety Retirement System may only be applied prospectively from the date of that decision.

(D) A decision of the Peace Officer Standards and Training Council granting an individual or a position coverage under the Public Safety Retirement System may be applied retroactively only if:

(I) the employing unit covered other similarly situated employees under the Public Safety Retirement System during the time period in question; and

(II) the employee otherwise meets all eligibility requirements for membership in the Public Safety Retirement System.

(c) (i) The Peace Officer Standards and Training Council may use a subcommittee to provide

a recommendation to the council in determining disputes between the retirement office and an employing unit or employee over a position to be covered under this system.

(ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

(6) Employees who have performed public safety service and who then transfer or are promoted to administration positions not covered by this system shall continue to earn public safety service credit under this chapter as long as they remain employed in the same department.

(7) Unless the Legislature fails to provide funding in the appropriations act for the inclusion of special function officers in the noncontributory system, special function officers shall be eligible for membership in the noncontributory system if approved by the Peace Officers Standards and Training Council

(8) (a) The Peace Officer Standards and Training Council, in determining disputes between the retirement office and an employing unit or employee over a position to be covered under this system, shall determine that to be eligible for membership in this system the employee:

(i) is required as a duty of employment to serve in a position that may place the employee at risk to life and personal safety; and

(ii) is required to complete training as provided in Subsection [~~77-1a-1(3), 77-1a-2(3), or 77-1a-4(3)~~] 53-10-103(4), 53-10-104(3), or 53-10-105(3).

(b) If an employee satisfies the requirements of Subsection (8)(a), the Peace Officer Standards and Training Council shall consider, in determining eligibility for membership in the system, whether the employee:

(i) performs duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) performs duties that consist primarily of providing community protection; and

(iii) is required to respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(9) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of

Subsection (8) in making its recommendation.

(10) A final order of the Peace Officer Standards and Training Council regarding a dispute is final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures Act.

Section 31. Section **49-8-405** is amended to read:

49-8-405. Life insurance benefits for peace officers' beneficiaries.

(1) The beneficiary of a peace officer under Title ~~[77]~~ 53, Chapter ~~[1a]~~ 10, Peace Officer Classifications, who is employed by the state and who dies in the line of duty as defined under Subsection (3), shall receive the proceeds of a group term life insurance policy in the amount of \$50,000 to be purchased by the division and paid for by the employing unit.

(2) Any political subdivision which employs a peace officer under Title ~~[77]~~ 53, Chapter ~~[1a]~~ 10, Peace Officer Classifications, may provide the benefit under Subsection (1).

(3) "Line of duty death" means a death resulting from external force or violence occasioned by an act of duty as a peace officer.

Section 32. Section **53-1-102** is amended to read:

53-1-102. Definitions.

(1) As used in this title:

(a) "Commissioner" means the commissioner of public safety appointed under Section 53-1-107.

(b) "Department" means the Department of Public Safety created in Section 53-1-103.

(c) "Law enforcement agency" means an entity of the federal government, a state, or a political subdivision of a state, including a state institution of higher education, that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

(d) "Law enforcement officer" ~~[means any officer certified in accordance with Title 77, Chapter 1a, Peace Officer Designation]~~ has the same meaning as provided in Section 53-10-103.

(e) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

(f) "Peace officer" ~~[has the same meaning as provided in Section 77-1a-1]~~ means any officer

certified in accordance with Title 53, Chapter 10, Peace Officer Classifications.

(g) "State institution of higher education" has the same meaning as provided in Section 53B-3-102.

(h) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Section 33. Section **53-1-109** is amended to read:

53-1-109. Security for capitol complex -- Traffic and parking rules enforcement for division -- Security personnel as law enforcement officers.

(1) The commissioner, in cooperation with the director of the Division of Facilities Construction and Management, shall:

(a) provide for the security of grounds and buildings of the capitol complex; and

(b) enforce traffic provisions under Title 41, Chapter 6, Traffic Rules and Regulations, and parking rules, as adopted by the Division of Facilities Construction and Management, for all grounds and buildings under the jurisdiction of the Division of Facilities Construction and Management.

(2) Security personnel required in Subsection (1), shall be [peace] law enforcement officers as defined in Section [~~77-1a-1~~] 53-10-103.

(3) Security personnel who were actively employed and had five or more years of active service with Protective Services within the Utah Highway Patrol Division as special function officers, as defined in Section [~~77-1a-4~~] 53-10-105, on June 29, 1996, shall become [peace] law enforcement officers:

(a) without a requirement of any additional training or examinations if they have completed the entire [peace] law enforcement officer training of the Peace Officers Standards and Training Division; or

(b) upon completing only the academic portion of the [peace] law enforcement officer training of the Peace Officers Standards and Training Division.

(4) An officer in a supervisory position with Protective Services within the Utah Highway Patrol Division shall be allowed to transfer the job title that the officer held on April 28, 1996, into a comparable supervisory position of employment as a peace officer for as long as the officer remains with Protective Services within the Utah Highway Patrol Division.

Section 34. Section **53-3-417** is amended to read:

53-3-417. Measurable alcohol amount consumed -- Penalty -- Refusal to take test for alcohol.

(1) A person who holds or is required to hold a CDL may not drive a commercial motor vehicle while there is any measurable or detectable alcohol in his body.

(2) The division, a port-of-entry agent, or a [~~law enforcement~~] peace officer shall place a person out-of-service for 24 consecutive hours who:

(a) violates Subsection (1); or

(b) refuses a request to submit to a test to determine the alcohol concentration of his blood, breath, or urine.

Section 35. Section **53-3-702** is amended to read:

53-3-702. Definitions.

As used in this part:

(1) "Citation" means a summons, ticket, or other official document issued by a [~~law enforcement~~] peace officer for a traffic violation, containing an order that requires the motorist to respond.

(2) "Collateral" means cash or other security deposited to secure an appearance for trial, following the issuance by a [~~law enforcement~~] peace officer of a citation for a traffic violation.

(3) "Court" means a court of law or traffic tribunal.

(4) "Driver license" means a license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(5) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to

the motorist.

(7) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(9) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(10) "Terms of the citation" means those options expressly stated upon the citation.

Section 36. Section **53-5-207** is amended to read:

53-5-207. Collection of information.

The commissioner and persons designated by him may require all [law enforcement] peace officers, the warden of the state prison, the keeper of any jail or correctional institution, or superintendent of the state hospital to obtain information that will aid in establishing the records required to be kept.

Section 37. Section **53-6-203** is amended to read:

53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

(a) be a United States citizen;

(b) be at least 21 years old at the time of appointment as a peace officer;

(c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

and

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of his duty as a peace officer.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(i) Conviction of any offense not serious enough to be covered under Subsection (1)(d), involving dishonesty, unlawful sexual conduct, physical violence, or the unlawful use, sale, or possession for sale of a controlled substance is an indication that an applicant may not be of good moral character and may be grounds for denial of admission to a training program or refusal to take a certification examination.

(ii) An applicant may be admitted to a training program provisionally, pending completion of any background check or investigation required by this subsection.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

Section 38. Section **53-6-211** is amended to read:

53-6-211. Revocation, suspension, or refusal of certification -- Hearings -- Grounds -- Notice to employer -- Reporting.

(1) (a) The director may, upon the concurrence of the majority of the council, revoke, refuse,

or suspend certification of a peace officer for cause.

(b) Except as provided under Subsection (6), the council shall give the person or peace officer involved prior notice and an opportunity for a full hearing before the council.

(c) The director, with the concurrence of the council, may by rule designate a presiding officer to represent the council in adjudicative proceedings or hearings before the council.

(d) Any of the following constitute cause for action under Subsection (1)(a):

(i) willful falsification of any information to obtain certified status;

(ii) physical or mental disability affecting the employee's ability to perform his duties;

(iii) addiction to or the unlawful sale, possession, or use of narcotics, drugs, or drug paraphernalia;

(iv) conviction of a felony or any crime involving dishonesty, unlawful sexual conduct, physical violence, or driving under the influence of alcohol or drugs; or

(v) any conduct or pattern of conduct that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement.

(2) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction may be considered for purposes of this section.

(b) In this section, "conviction" includes a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures.

(c) This provision applies to convictions entered both before and after the effective date of this section.

(3) The director shall send notice to the governing body of the political subdivision employing the peace officer and shall receive information or comments concerning the peace officer from the governing body or the agency employing the officer before suspending or revoking that peace officer's certification.

(4) Denial, suspension, or revocation procedures may not be initiated by the council when an officer is terminated for infraction of his agency's policies, general orders, or similar guidelines of operation that do not amount to any of the causes for denial, suspension, or revocation enumerated in Subsection (1).

(5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude revocation or subsequent denial of peace officer certification status by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by his parent agency after termination, whether the termination was voluntary or involuntary, does not preclude revocation or subsequent denial of peace officer certification status by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6) (a) When the cause for action is conviction of a felony, the proceedings prior to a recommendation shall be limited to an informal review of written documentation by the presiding officer.

(b) If the presiding officer determines that the peace officer has been convicted of a felony, then the presiding officer shall recommend revocation.

(c) The peace officer may request an informal hearing before the presiding officer solely to present evidence that there was no felony conviction~~[, or that the conviction has been overturned, reduced to a misdemeanor, or expunged]~~.

(d) At the conclusion of an informal hearing, the presiding officer shall make a recommendation to the director and the council.

(7) The chief, sheriff, or administrative officer of a law enforcement agency is required to report to Peace Officer Standards and Training all conduct of employees who are peace officers, as provided in Subsection (1)(d) above.

Section 39. Section **53-6-212** is amended to read:

53-6-212. Responsibility for training -- Certification.

(1) The division is not responsible for providing basic or in-service training for peace officers defined and designated in Sections ~~[77-1a-2]~~ 53-10-103 through ~~[77-1a-5]~~ 53-10-105 except for approval of the instructors and content of training where required by this chapter, Title ~~[77]~~ 53, Chapter ~~[1a]~~ 10, Peace Officer ~~[Designation]~~ Classifications, or division rules.

(2) Where this chapter or Title ~~[77]~~ 53, Chapter ~~[1a]~~ 10, Peace Officer ~~[Designation]~~ Classifications, requires an agency head to certify that a member has completed required training,

the division shall rely on the certification, as provided, to be accurate.

Section 40. Section **53-7-105** is amended to read:

53-7-105. State fire marshal, deputies, and investigators -- Status of law enforcement officers -- Inclusion in Public Safety Retirement -- Training.

(1) The state fire marshal, his deputies, and investigators, for the purpose of enforcing and investigating violations of fire related statutes and ordinances, have the status of [~~peace~~] law enforcement officers.

(2) Inclusion under Title 49, Chapter 4, Public Safety Retirement Act, or Title 49, Chapter 4a, Public Safety Noncontributory Retirement Act, is not authorized by Subsection (1) except as provided in those chapters.

(3) The commissioner, with the concurrence of the Peace Officer Standards and Training Advisory Board may require peace officer standards and training for the state fire marshal, his deputies, and investigators.

Section 41. Section **53-9-118** is amended to read:

53-9-118. Grounds for disciplinary action -- Types of action.

(1) The following constitute grounds for which disciplinary action may be taken against a licensee, associate, registrant, apprentice, or employee of the licensee engaged in activities regulated under this chapter:

(a) fraud or willful misrepresentation in applying for an original license or registration renewal of an existing license or registration;

(b) using any letterhead, advertising or other printed matter in any manner representing that he is an instrumentality of the federal government, a state, or any political subdivision of a state;

(c) using a name different from that under which he is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name;

(d) impersonating, permitting, or aiding and abetting an employee or registrant to impersonate a [~~law enforcement~~] peace officer or employee of the United States, any state, or a political subdivision of a state;

(e) knowingly violating, advising, encouraging, or assisting the violation of any statute, court

order, or injunction in the course of a business regulated under this chapter;

(f) falsifying fingerprints or photographs while operating under this chapter;

(g) conviction of a felony;

(h) conviction of any act involving illegally using, carrying, or possessing a dangerous weapon;

(i) conviction of any act involving moral turpitude;

(j) conviction of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person;

(k) soliciting business for an attorney in return for compensation;

(l) conviction of any act constituting dishonesty or fraud;

(m) being placed on probation, parole, or named in an outstanding arrest warrant;

(n) committing, or permitting any associate, registrant, or employee to commit any act during the period between the expiration of a license or registration for failure to renew within the time fixed by this chapter, and the reinstatement of the license or registration, that would be cause for the suspension or revocation of the license or registration or grounds for denial of the application for the license or registration;

(o) willfully neglecting to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties. However, if the investigator chooses to withdraw from the case and returns the funds for work not yet done, no violation of this section exists;

(p) the unauthorized release of information acquired on behalf of a client by a licensee, associate, or registrant as a result of activities regulated under this chapter;

(q) failing or refusing to cooperate with or refusing access to an authorized representative of the department engaged in an official investigation pursuant to this chapter;

(r) employing or contracting with any unregistered or improperly registered person or unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure or registration status was known or could have been ascertained by reasonable inquiry;

(s) permitting, authorizing, aiding, or in any way assisting a registered employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency;

(t) failure to maintain in full force and effect workers' compensation insurance, if applicable;

(u) conducting private investigation services regulated by this chapter on a revoked or suspended license or registration;

(v) accepting employment, contracting, or in any way engaging in employment that has an adverse impact on investigations being conducted on behalf of clients;

(w) advertising in a false, deceptive, or misleading manner;

(x) refusing to display the identification card issued by the department to any person having reasonable cause to verify the validity of the license or registration; or

(y) committing any act of unprofessional conduct.

(2) On completion of an investigation, the board may:

(a) dismiss the case;

(b) take emergency action;

(c) issue a letter of concern, if applicable;

(d) impose a fine not to exceed \$500; or

(e) place all records, evidence findings, and conclusions and any other information pertinent to the investigation in the confidential and protected records section of the file maintained at the department.

(3) A letter of concern is a document that is retained and may be used in future disciplinary actions against a licensee.

(4) If the board finds, based on its investigation, that the public health, safety, or welfare requires emergency action, the board may order a summary suspension of a license or registration pending proceedings for revocation or other action. If the board issues this order, the commissioner shall issue to the licensee, registrant, apprentice, or employee a written notice of complaint and formal hearing, setting forth the charges made against the licensee, registrant, apprentice, or employee and their right to a formal hearing before the board within 60 days.

(5) If the board finds, based on the investigation, that a violation of Subsection (1) has occurred, notice will be sent to the licensee, registrant, apprentice, or employee of the results of the hearing by mailing a true copy to the licensee's, registrant's, apprentice's, or employee's last-known address in the department's files by certified mail, return receipt requested.

(6) Based on information the Private Investigator Hearing Board receives during a hearing it may:

- (a) dismiss the complaint if the board believes it is without merit;
- (b) fix a period and terms of probation best adapted to educate the licensee, registrant, apprentice, or employee;
- (c) place the license or registration on suspension for a period of not more than 12 months;
- (d) revoke the license or registration; or
- (e) impose a civil fine not to exceed \$500.

(7) On a finding by the board that a licensee committed a violation of Subsection (1), the probation, suspension, or revocation applies to all licenses, registrations, or employees under the agency license. If a registrant or apprentice committed a violation of Subsection (1), the probation, suspension, or revocation applies only to the license or registrations held by an apprentice registrant or registrant under this chapter.

(8) Appeal of the board's decision shall be made in writing to the commissioner within 15 days of the board's decision. The commissioner shall review the finding by the board and may affirm, return to the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the recommendation of the board.

(9) A person may appeal the commissioner's decision to the district court pursuant to Section 63-46b-15.

(10) All fines collected under this section shall be deposited in the General Fund.

Section 42. Section **53-10-101** is enacted to read:

CHAPTER 10. PEACE OFFICER CLASSIFICATIONS

53-10-101. Definitions.

As used in this chapter:

(1) "Certified" means recognized and accepted by the division as having successfully met and maintained the standards and training requirements set and approved by the director of the division with the advice and consent of the council.

(2) "Collateral duty" means a duty to corroborate and support a peace officer function that is secondary and supplemental to the primary duty of the position.

(3) "Council" means the Peace Officer Standards and Training Council created in Section 53-6-106.

(4) "Director" means the director of the Peace Officer Standards and Training Division appointed under Section 53-6-104.

(5) "Division" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(6) "Local law enforcement agency" means a law enforcement agency of any political subdivision of the state.

(7) "Primary duties" means those duties which come first in degree of effort and importance.

(8) "Principal duties" means those duties which are the highest and foremost in responsibility.

(9) "Spectrum" means that which encompasses the scope of authority. " Full spectrum" encompasses total 24-hour authority; while anything less than full authority is contained or restricted within certain limits as set forth by statute, ordinance, policy, or rule.

(10) "Sworn" means having taken the oath of office set forth in Utah Constitution Article IV, Section 10, administered by the law enforcement agency for whom a peace officer works.

(11) "Volunteer" means an officer who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(12) (a) "While on duty" means while an officer is actually performing the job duties and work activities assigned by the employing agency and for which the officer is trained and certified, and may include time spent outside those duties and activities if that additional time involves an activity that is an integral and necessary part of the job, and is spent for the benefit, and under the direction of, the employing agency.

(b) "While on duty" does not include the time an officer spends commuting between the officer's home and place of employment unless that time involves an activity in Subsection (12)(a).

Section 43. Section **53-10-102**, which is renumbered from Section 77-1a-1.5 is renumbered and amended to read:

~~[77-1a-1.5].~~ **53-10-102. Peace officer classifications.**

The following officers may exercise peace officer authority only as specifically authorized by law:

- (1) ~~[reserve and auxiliary]~~ law enforcement officers;
- (2) ~~[special function]~~ correctional officers;
- (3) ~~[federal police]~~ special function officers; and
- (4) ~~[correctional]~~ federal officers.

Section 44. Section **53-10-103**, which is renumbered from Section 77-1a-1 is renumbered and amended to read:

~~[77-1a-1].~~ **53-10-103. Law enforcement officer.**

(1) (a) "[Peace] Law enforcement officer" means ~~[any employee]~~ a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose primary and principal duties consist ~~[primarily]~~ of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "[Peace] Law enforcement officer" specifically includes the following:

- (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;
- (ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;
- (iii) all persons specified in Sections 23-20-1.5 and 63-11-17.2;
- (iv) any police officer employed by any college or university;
- (v) investigators for the Motor Vehicle Enforcement Division;
- (vi) special agents or investigators for the attorney general, district attorneys, and county

attorneys;

(vii) employees of the Department of Natural Resources designated as peace officers by law;

(viii) school district police officers as designated by the board of education for the school district;

(ix) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the ~~[Peace Officer Standards and Training Division]~~ division;

(x) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993; ~~[and]~~

(xi) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety~~[-]; and~~

(xii) airport police officers of any airport owned or operated by the state or any of its political subdivisions.

(2) Law enforcement officers may serve criminal process and arrest and prosecute violators of any law of this state and have the right to require aid in executing their lawful duties.

~~[(2) Peace officers have]~~ (3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when ~~[they are]~~ the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit~~[- This limitation does not apply to any peace]~~, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (b)(i), a law enforcement officer may exercise his authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of [peace] law enforcement officers employed by the Department of

Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

~~[(3)(a)] (4)~~ A ~~[peace]~~ law enforcement officer shall, prior to exercising peace officer authority, satisfactorily complete:

(a) the basic course at a certified ~~[peace]~~ law enforcement officer training academy or pass a certification examination as provided in Section 53-6-206, and be certified~~[-];~~ and

~~(b) [In addition, a peace~~ law enforcement ~~officer shall satisfactorily complete]~~ annual certified training of at least 40 hours per year as directed by the director of the ~~[Peace Officer Standards and Training Division]~~ division, with the advice and consent of the ~~[Peace Officer Standards and Training Council]~~ council.

Section 45. Section **53-10-104**, which is renumbered from Section 77-1a-2 is renumbered and amended to read:

~~[77-1a-2].~~ **53-10-104. Correctional officer.**

(1) (a) "Correctional officer" means an officer or employee of the Department of Corrections, ~~[youth corrections,]~~ any political subdivision of the state, or any private entity which contracts with the state or its political subdivisions to incarcerate inmates~~[-]~~ who is charged with the primary duty of providing community protection.

(b) "Correctional officer" includes an individual assigned to carry out any of the following types of functions:

(i) controlling, transporting, supervising, and taking into custody of persons arrested or convicted of crimes;

(ii) supervising and preventing the escape of persons in state and local incarceration facilities; ~~[and]~~

(iii) guarding and managing inmates and providing security and enforcement services at a correctional facility; and

(iv) employees of the Board of Pardons and Parole serving on or before September 1, 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and provide security to the Board of Pardons and Parole, and who are designated by the Board of Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace Officer Standards

and Training Division.

(2) (a) Correctional officers have peace officer authority only while ~~[engaged in the performance of their duties]~~ on duty. The authority of correctional officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

(b) Correctional officers may carry firearms only if authorized by and under conditions specified by the director of the Department of Corrections or the chief law enforcement officer of the employing agency.

(3) (a) An individual may not exercise the authority of ~~[a]~~ an adult correctional officer until the individual has satisfactorily completed a basic training program for correctional officers and the director of the Department of Corrections ~~[or the chief administrator of the employing agency]~~ has certified the completion of training to the director of ~~[Peace Officer Standards and Training]~~ the division.

(b) An individual may not exercise the authority of a county correctional officer until:

(i) the individual has satisfactorily completed a basic training program for correctional officers and any other specialized training required by the local law enforcement agency; and

(ii) the chief administrator of the local law enforcement agency has certified the completion of training to the director of the division.

~~[(b)]~~ (4) (a) The Department of Corrections of the state ~~[or the employing agency,]~~ shall establish and maintain a ~~[corrections]~~ correctional officer basic course and in-service training programs as approved by the director of ~~[Peace Officer Standards and Training,]~~ the division with the advice and consent of the ~~[Council on Peace Officer Standards and Training]~~ council.

(b) The in-service training shall:

(i) consist of no fewer than 40 hours per year[;]; and [shall]

(ii) be conducted by the agency's own staff or other agencies.

~~[(4) Employees of the Division of Youth Corrections or private entities that contract with the division are not required to comply with the provisions of this section until July 1, 1998.]~~

(5) The local law enforcement agencies may establish correctional officer basic, advanced,

or in-service training programs as approved by the director of the division with the advice and consent of the council.

Section 46. Section **53-10-105**, which is renumbered from Section 77-1a-4 is renumbered and amended to read:

~~[77-1a-4].~~ **53-10-105. Special function officer.**

(1) (a) "Special function [~~officers~~] officer" means [~~persons~~] a sworn and certified peace officer performing specialized investigations, service of legal process, [~~or~~] security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function [~~officers~~] include] officer" includes:

- (i) state military police;
- (ii) constables;
- (iii) port-of-entry agents as defined in Section 27-12-2;
- (iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 27, Chapter 17, Motor Carrier Safety Act;
- (v) school district security officers;
- (vi) Utah State Hospital security officers designated pursuant to Section 62A-12-203;
- (vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206(9);
- (viii) fire arson investigators for any political subdivision of the state, ~~airport security officers of any airport owned or operated by the state or any of its political subdivisions, railroad special agents deputized by a county sheriff under Section 17-30-2, and all other persons designated by statute as having peace officer authority.~~;
- (~~e~~) (ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;
- (~~d~~) (x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty shall be special function officers;
- (xi) railroad special agents deputized by a county sheriff under Section 17-30-2, or appointed pursuant to Section 56-1-21.5; and

(xii) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) ~~[Special]~~ A special function ~~[officers have]~~ officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while ~~[engaged in the duties of their employment]~~ on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

~~[(b) Airport security officers have total peace officer authority when on duty and when acting in relation to the responsibilities of the airport at which they are employed, providing that the powers may be exercised only in connection with acts occurring on the property of the airport.]~~

(c) ~~[Special]~~ A special function ~~[officers]~~ officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator. ~~[The carrying of firearms by constables is authorized only while they are engaged in the duties of their employment.]~~

(3) (a) A special function officer may not exercise the authority of a peace officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection ~~[(b)]~~ (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the ~~[Peace Officer Standards and Training Division]~~ division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

~~[(b)]~~ (4) (a) The agency that the special function officer serves ~~[shall]~~ may establish and maintain a basic special function course and in-service training programs as approved by the director of the ~~[Peace Officer Standards and Training Division]~~ division with the advice and consent of the ~~[Peace Officer Standards and Training Council]~~ council.

(b) The in-service training shall consist of no fewer than 40 hours per year and ~~[shall]~~ may be conducted by the agency's own staff or other agencies.

Section 47. Section **53-10-106**, which is renumbered from Section 77-1a-5 is renumbered and amended to read:

~~[77-1a-5].~~ **53-10-106. Federal officers -- State law enforcement authority.**

(1) (a) "Federal ~~[peace officers" include]~~ officer" includes:

- (i) a special [agents] agent of the Federal Bureau of Investigation;
- (ii) a special [agents] agent of the United States Secret Service;
- (iii) a special [agents] agent of the United States Customs Service, excluding ~~[customs inspectors]~~ a customs inspector;
- (iv) a special [agents] agent of the Bureau of Alcohol, Tobacco~~;~~ and Firearms;
- (v) a special [agents] agent of the Federal Drug Enforcement Agency; and
- (vi) a United States [marshals] marshal, deputy ~~[marshals]~~ marshal, and special deputy United States ~~[marshals]~~ marshal.

(b) Notwithstanding Subsection (2), federal officers listed in Subsection (1)(a) have statewide law enforcement authority relating to felony offenses under the laws of this state.

~~[(b)]~~ (c) The ~~[Council on Peace Officer Standards and Training]~~ council may designate other federal peace officers, as necessary, if the officers:

- (i) are persons employed full-time by the United States government as federally recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;
- (ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and
- (iii) maintain in-service training in accordance with the standards ~~[of the employing federal agency]~~ set forth in Section 53-10-103.

(2) ~~[Federal peace officers have statewide peace officer authority relating to felony offenses under the laws of this state.]~~ Except as otherwise provided under Title 63, Chapter 8, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise

state law enforcement authority only if:

~~[(3) Federal peace officers may have statewide peace officer authority relating to misdemeanor offenses only if:]~~

~~[(a) the state law enforcement agency with jurisdiction over the misdemeanor signs a contract with the federal agency to be given misdemeanor authority; and]~~

~~[(b) each federal peace officer employed by the federal agency completes a course on the state statutes approved by the Council on Peace Officer Standards and Training.]~~

(a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and

(b) except as provided in Subsection (3) of this section, each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.

(3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law enforcement authority without meeting the waiver requirement.

(4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.

(5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.

Section 48. Section **53-10-107**, which is renumbered from Section 77-1a-6 is renumbered and amended to read:

[77-1a-6]. 53-10-107. Basic training requirements for position -- Peace officers temporarily in the state.

(1) (a) ~~[All persons]~~ Any person who ~~[have]~~ has satisfactorily completed, before the effective date of this chapter, an approved basic training program required of ~~[their positions]~~ the person's position may act in a certified capacity without completion of an additional basic training program.

(b) Any person hired, appointed, or elected to any position designated in this chapter, except

federal officer, shall satisfactorily complete the required basic training required of that position before the person is authorized to exercise peace officer powers under this chapter.

(2) Any peace officer employed by a law enforcement agency of another state and functioning in that capacity within Utah on a temporary basis is considered certified under Utah law:

(a) while functioning as a peace officer within the state at the request of a Utah law enforcement agency; or

(b) when conducting business as a representative of a law enforcement agency from another state.

Section 49. Section **53-10-108**, which is renumbered from Section 77-1a-8 is renumbered and amended to read:

~~[77-1a-8].~~ 53-10-108. Retirement.

Eligibility for coverage under the Public Safety Retirement System or Public Safety Noncontributory Retirement System for persons and political subdivisions included in this chapter is governed by Title 49, [~~Chapters~~] Chapter 4, Public Safety Retirement Act, and Chapter 4a, Public Safety Noncontributory Retirement Act.

Section 50. Section **53-10-109**, which is renumbered from Section 77-1a-9 is renumbered and amended to read:

~~[77-1a-9].~~ 53-10-109. References in other provisions.

When the term peace officer[~~, or any category of peace officer,~~] is used in any other provision of law, the term includes anyone authorized to exercise authority as provided in this chapter, except federal officers.

Section 51. Section **53-10-110**, which is renumbered from Section 77-1a-10 is renumbered and amended to read:

~~[77-1a-10].~~ 53-10-110. Duties to investigate specified instances of abuse or neglect.

In accordance with the requirements of Section 62A-4a-202.5, [~~peace~~] law enforcement officers shall investigate alleged instances of abuse or neglect of a child that occur while the child is in the custody of the Division of Child and Family Services, within the Department of Human Services.

Section 52. Section **53-10-111** is enacted to read:

53-10-111. Peace officers serving in a reserve capacity.

(1) (a) Nothing in this chapter shall preclude any law enforcement agency of the state or any of its political subdivisions from utilizing a sworn and certified peace officer in a reserve capacity.

(b) The peace officer has peace officer authority only while engaged in the peace officer activities authorized by the chief or administrator of the agency the officer serves and shall only exercise that spectrum of peace officer authority:

(i) that the supervising agency is empowered to delegate; and

(ii) for which the officer has been trained and certified.

(2) While serving as a nonpaid volunteer in a reserve capacity, or working part-time for fewer hours than that which would qualify the officer as an "employee" under state or federal law, a peace officer is entitled to benefits in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.

(3) The agency the reserve officer serves shall ensure that the officer meets the basic and in-service training requirements of the peace officer classification in which the officer will function.

Section 53. Section **53A-13-106** is amended to read:

53A-13-106. Instruction in firearm safety -- Purpose -- School districts to implement volunteer education classes -- Parental consent exception.

(1) (a) School districts may permit the use of certified volunteers or school district teachers for instruction of firearm safety education classes for pupils enrolled in grades Kindergarten to 8, inclusive.

(b) The firearm safety education class may be taught:

(i) during one year to pupils in grades K-4;

(ii) during one year to pupils in grades 5-8; and

(iii) no more than four times during that one-year period.

(c) The certified volunteers or school district teachers instructing the firearm safety education class are encouraged to utilize donated materials prepared by firearms training and education organizations or to develop their own materials within existing budgets.

(2) The purpose of firearm safety education is to develop the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms.

(3) As used in this chapter, "firearm" means any firearm as defined in Section 76-10-501.

(4) The State Board of Education shall make rules promulgated pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for:

(a) use of certified volunteers for instruction of firearm safety education classes in the public schools;

(b) use of public school classrooms or auditoriums for these classes;

(c) school district review of donated materials before their use; and

(d) proof of certification as a firearm safety instructor.

(5) (a) Every pupil may be required by the local school board to participate in a firearm safety education class which may be offered within the public schools.

(b) A pupil may be exempted from participation upon notification to the local school by the pupil's parent or legal guardian that the parent or legal guardian wants the pupil exempted from the class in its entirety or any portion specified.

(6) If a pupil is exempted under Subsection (5) from the firearm safety education class, the school district may provide other activities during the period of time in which the pupil would otherwise be participating in the program.

(7) The school districts may permit the Division of Wildlife Resources, local law enforcement agencies, peace officers as defined in [~~Section 77-1a-1~~] Title 53, Chapter 10, Peace Officer Classifications, certified instructors, certified hunter education instructors, and other certified firearms safety instructors, as provided by rules of the State Board of Education promulgated under Subsection (4)(a) to teach the firearm safety education class on a voluntary basis.

(8) The school district is encouraged to maximize the use of existing firearm safety educational materials which are available at minimal or no cost and the use of certified volunteer instructors.

(9) The school district may review the class on a regular basis for its effectiveness.

Section 54. Section **53B-8c-102** is amended to read:

53B-8c-102. Definitions.

As used in this chapter:

(1) "Child" means an individual who:

(a) is a natural or adopted child of a deceased [~~police~~] peace officer or deceased firefighter;

and

(b) was under the age of 25 at the time of the [~~police~~] peace officer's or firefighter's death.

(2) "Department" means the Department of Public Safety.

(3) "Killed" means that the [~~police~~] peace officer's or firefighter's death is the direct and proximate result of a traumatic injury incurred in the line of duty.

(4) "Line of duty" means an action that a [~~police~~] peace officer or firefighter is obligated or authorized to perform by rule, regulation, condition of employment or service, or law, including a social, ceremonial, or athletic function that the [~~police~~] peace officer or firefighter is assigned to or compensated for by the public agency being served.

(5) "Occupational disease" means a disease that routinely constitutes a special hazard in, or is commonly regarded as concomitant of, the [~~police~~] peace officer's or firefighter's occupation.

(6) "State institution of higher education" means those institutions designated in Section 53B-1-102.

(7) "Traumatic injury" means a wound or the condition of the body caused by external force, including an injury inflicted by bullet, explosive, sharp instrument, blunt object, or other physical blow, fire, smoke, chemical, electricity, climatic condition, infectious disease, radiation, or bacteria, but excluding an occupational disease.

(8) "Tuition" means tuition at the rate charged for residents of the state.

(9) (a) "Utah firefighter" or "firefighter" means a member, including volunteer members and members paid on call, of a fire department or other organization that provides fire suppression and other fire-related services, of a political subdivision who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires. [Ht]

(b) "Utah firefighter" or "firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(10) "Utah [police] peace officer" or "[police] peace officer" means an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose duties consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

Section 55. Section **53B-8c-103** is amended to read:

53B-8c-103. Tuition waivers for surviving spouses and children of police officers and firefighters killed in the line of duty -- Qualifications -- Limitations.

(1) Beginning in the 1997-98 academic year, and subject to the limitations in Subsections (2), (3), and (4) of this section, a state institution of higher education shall waive tuition for each child and surviving spouse of a Utah [police] peace officer or Utah firefighter who has been killed or is killed in the line of duty if the individual meets the following requirements:

(a) applies, qualifies, and is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate;

(b) is a resident student of the state as determined under Section 53B-8-102;

(c) applies to the department for a waiver of tuition under this chapter and provides evidence satisfactory to the department that:

(i) the applicant is the surviving spouse or child of a [police] peace officer or firefighter who was killed in the line of duty;

(ii) the course or courses for which the applicant is seeking a tuition waiver meet the requirements of Subsection (2); and

(iii) the applicant meets the other requirements of this section;

(d) for a child of a [police] peace officer or firefighter killed in the line of duty, applies under Subsection (1)(c) for the first time before the age of 25;

(e) is certified by the financial aid officer at the higher education institution as needing the tuition waiver in order to meet recognized educational expenses, with the understanding that if the applicant's family income, excluding any income from death benefits attributable to the [police] peace officer's or firefighter's death, is below 400% of the poverty level under federal poverty guidelines, income from any death benefits accruing to the applicant as a result of the death may not

be counted as family income in determining financial need under this Subsection (1)(e);

(f) maintains satisfactory academic progress, as defined by the institution of higher education, for each term or semester in which the individual is enrolled, which may be measured by the definition used for federal student assistance programs under Title IV of the Higher Education Act of 1965; and

(g) has not achieved a bachelor's degree and has received tuition reimbursement under this chapter for less than 124 semester credits or 180 quarter credits at an institution of higher education.

(2) A child or surviving spouse of a [~~police~~] peace officer or firefighter who was killed in the line of duty is eligible for a tuition waiver under this section of not more than nine semesters or the equivalent number of quarters.

(3) Tuition shall be waived only to the extent that the tuition is not covered or paid by any scholarship, trust fund, statutory benefit, or any other source of tuition coverage available for a waiver under this chapter.

(4) An institution of higher education shall waive tuition under this chapter only for courses that are applicable toward the degree or certificate requirements of the program in which the child or surviving spouse is enrolled.

Section 56. Section **56-1-21.5** is amended to read:

56-1-21.5. Railroad special agents.

(1) (a) A railroad company may appoint one or more persons to be designated by the railroad company as a railroad special agent for the protection of railroad property and the protection of the persons and property of railroad passengers and employees.

(b) While engaged in the conduct of employment, each appointed railroad special agent may possess and exercise the powers of a [~~peace~~] special function officer.

[~~(b)~~] (c) The [~~peace~~] special function officer authority may be exercised only:

(i) in the protection of passengers and employees on or about railroad premises and in the protection of property belonging to passengers, or belonging to or under the control of the railroad employing the special agents[;]; and

(ii) in preventing[;] and making arrest for a violation of law upon the premises or in

connection with the property.

(2) (a) A person appointed by a railroad company to act as a railroad special agent shall, prior to appointment, meet the [minimum] qualifications established for [peace] special function officers, pursuant to [~~Title 77, Chapter 1a~~] Section 53-10-105, or as otherwise [may be] provided by law.

(b) (i) Before the appointee performs any duties as a special agent, the railroad company shall file the name of the appointee with the commissioner of the Department of Public Safety.

(ii) If the appointee meets [minimum] qualifications for a [peace] special function officer, the commissioner of the Department of Public Safety shall issue to the special agent a certificate of authority to act as a peace officer, to continue in effect during his employment by the railroad unless revoked by the commissioner for cause.

(3) (a) A railroad company appointing a special agent is responsible for any liability arising from the acts or omissions of the special agent within the scope of railroad employment, but is entitled to any defense to liability that may be available to other peace officers.

(b) Neither the state nor any of its political subdivisions is liable for any act or omission of a railroad special agent.

Section 57. Section **62A-4a-202.5** is amended to read:

62A-4a-202.5. Law enforcement investigation of alleged abuse in foster care.

A [peace] law enforcement officer, as defined in Section [~~77-1a-1~~] 53-10-103, shall investigate any report or allegation of abuse or neglect of a child that allegedly occurs while the child is living in substitute care in the protective custody, temporary custody, or custody of the division.

Section 58. Section **63-11-17.2** is amended to read:

63-11-17.2. Peace officer authority of park rangers.

(1) The Division of Parks and Recreation has the duty to protect state parks and park property from misuse or damage and to preserve the peace within state parks.

(2) Employees of the Division of Parks and Recreation who are POST certified peace officers and who are designated as park rangers by the division director, are [peace] law enforcement officers under Section [~~77-1a-1~~] 53-10-103, and have all the powers of [peace] law enforcement

officers in the state, with the exception of the power to serve civil process.

(3) The Division of Parks and Recreation has the authority to deputize persons who are peace officers or special function officers to assist park rangers on a seasonal temporary basis.

Section 59. Section **63-25a-402** is amended to read:

63-25a-402. Definitions.

As used in this chapter:

(1) "Accomplice" means a person who has engaged in criminal conduct as defined in Section 76-2-202.

(2) "Board" means the Crime Victims' Reparations Board created under Section 63-25a-404.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claim" means:

(a) the right of a victim to recover reparations; and

(b) the formal action taken by a victim to apply for reparations pursuant to Sections 63-25a-401 through 63-25a-428.

(5) "Claimant" means any of the following claiming reparations under this chapter:

(a) a victim;

(b) a dependent of a deceased victim;

(c) a representative other than a collateral source; or

(d) the person or representative who files a claim on behalf of a victim.

(6) "Child" means an unemancipated person who is under 18 years of age.

(7) "Collateral source" means the definition as provided in Section 63-25a-413.

(8) "Contested case" means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of the claimant's lack of cooperation in the prosecution of a case after an award has already been given.

(9) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(a) is or would be subject to prosecution in this state under Section 76-1-201;

(b) occurs or is attempted;

(c) causes, or poses a substantial threat of causing, bodily injury or death;

(d) is punishable by fine, imprisonment, or death if the person engaging in the conduct possessed the capacity to commit the conduct;

(e) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs; or

(f) is an act of terrorism, as defined in 18 U.S.C. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. 2331.

(10) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after his death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to his dependent, not including services the dependent would have received from the victim if he had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for his benefit if he had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the Reparations Office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon a person:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is

made.

(15) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.

(16) "Elderly victim" means a person 60 years of age or older who is a victim.

(17) "Fraudulent claim" means a filed claim based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible as provided in Section 63-25a-410.

(18) "Law enforcement officer" means a [~~peace~~] law enforcement officer as defined in Section [~~77-1a-1~~] 53-10-103.

(19) "Medical examination" means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.

(20) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct. The definition of mental health counseling is subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(21) "Misconduct" as provided in Subsection 63-25a-412(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(22) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this chapter.

(23) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this chapter.

(24) "Offender" means a person who has violated the criminal code through criminally injurious conduct regardless of whether he is arrested, prosecuted, or convicted.

(25) "Offense" means a violation of the criminal code.

(26) "Perpetrator" means the person who actually participated in the criminally injurious conduct.

(27) "Personal property" has the same definition as provided in Section 68-3-12.

(28) "Reparations Office" means the office of the reparations staff for the purpose of carrying out this chapter.

(29) "Reparations officer" means a person employed by the Reparations Office to investigate claims of victims and award reparations under this chapter, and includes the director when he is acting as a reparations officer.

(30) "Reparations staff" means the director, the reparations officers, and any other staff employed to administer the Crime Victims' Reparations Act.

(31) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but the benefit of himself or his dependents if he had not been injured.

(32) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of a person but does not include service providers.

(33) "Restitution" means money or services an appropriate authority orders an offender to pay or render to a victim of the offender's conduct.

(34) "Secondary victim" means a person who witnesses or is traumatically affected by the criminally injurious conduct subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(35) "Service provider" means a person or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63-25a-424.

(36) "Trust fund" means the Crime Victim Reparation Trust Fund under Title 63, Chapter 63a.

(37) (a) "Victim" means a person who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Sections 76-5a-1 through 76-5a-4 if the person is a minor.

(b) "Victim" does not include a person who participated in or observed the judicial

proceedings against an offender unless otherwise provided by statute or rule.

(c) "Victim" includes:

(i) a person who suffers bodily injury or psychological injury as a direct result of being within the zone of danger of the criminally injurious conduct; and

(ii) a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. 2331, committed outside of the United States.

(38) "Work loss" means loss of income from work the injured victim would have performed if he had not been injured and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work he was capable of performing but unreasonably failed to undertake.

(39) "Zone of danger" means:

(a) the person was located near the scene of the criminally injurious conduct;

(b) the bodily injury, emotional trauma, or psychological injury to the person was caused by actually witnessing the criminally injurious conduct, or its results immediately after; and

(c) the person was an immediate relative to a victim of the criminally injurious conduct suffering bodily injury in their presence.

Section 60. Section **63-34-6** is amended to read:

63-34-6. Division directors -- Appointment -- Removal -- Jurisdiction of executive director -- Natural resources planning.

(1) (a) The chief administrative officer of each division within the Department of Natural Resources shall be a director appointed by the executive director of the Department of Natural Resources with the concurrence of the board having policy authority for the division.

(b) The director of each division may be removed from office by the executive director of the Department of Natural Resources.

(c) The appointment and term of office of the state engineer, notwithstanding anything to the contrary contained in this section, shall be in accordance with Section 73-2-1.

(2) (a) The executive director of the Department of Natural Resources shall have administrative jurisdiction over each of the division directors for the purpose of implementing

department policy as established by the division boards.

(b) The executive director of the Department of Natural Resources may consolidate personnel and service functions in the respective divisions under his administrative jurisdiction to effectuate efficiency and economy in the operations of the department, and may establish a departmental services division to perform service functions.

(c) This jurisdiction includes the authority of the executive director to employ ~~[peace]~~ law enforcement officers and special function officers within the Department of Natural Resources. These ~~[peace]~~ law enforcement officers shall have all of the powers of conservation officers provided in Title 23, Fish and Game, and ~~[peace]~~ law enforcement officers, with the exception of the power to serve civil process.

(3) (a) The executive director of the Department of Natural Resources, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.

(b) The executive director shall submit any plans to the governor for review and approval.

Section 61. Section **64-13-21** is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties.

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) Standards for the supervision of offenders shall be established by the department in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, giving priority, based on available resources, to felony offenders.

(2) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director ~~[are peace officers and]~~ have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) providing investigative services for the courts, the department, or the Board of Pardons and Parole; or

(d) supervising any offender during transportation.

(3) (a) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole. The fee may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) The department shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing. In determining whether the imposition of the fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

Section 62. Section **64-13-21.5** is amended to read:

64-13-21.5. Powers of correctional officers and POST certified correctional enforcement or investigation officers.

(1) Employees of the department who are designated by the executive director as correctional officers may exercise the powers and authority of a peace officer only when needed to properly carry out the following functions:

(a) performing the officer's duties within the boundaries of a correctional facility;

(b) supervising an offender during transportation;

(c) when in fresh pursuit of an offender who has escaped from the custody of the department;

or

(d) when requested to assist a local, state, or federal law enforcement agency.

(2) Employees of the department who are POST certified as law enforcement officers or

correctional officers and who are designated as correctional enforcement or investigation officers [are peace officers and may] have the following duties[;] as specified by the executive director:

- (a) providing investigative services for the department;
- (b) conducting criminal investigations and operations in cooperation with state, local, and federal law enforcement agencies; and
- (c) providing security and enforcement for the department.

Section 63. Section **65A-3-3** is amended to read:

65A-3-3. Enforcement of laws on state lands -- County attorney or district attorney to prosecute.

(1) It is the duty of the division, county sheriffs, their deputies, [~~police~~] peace officers, and other law enforcement officers within their jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.

(2) The county attorney or district attorney as appropriate under Sections 17-18-1, 17-18-1.5, and 17-18-1.7 shall prosecute any criminal violations of this chapter and shall initiate a civil action to recover suppression costs incurred by the county or state for suppression of fire on private land.

Section 64. Section **67-19-12.3** is amended to read:

67-19-12.3. Law enforcement officer and correctional officer pay plans.

The pay plans for [~~peace~~] law enforcement officers, as defined under Section [~~77-1a-1~~] 53-10-103, and correctional officers, as defined under Section [~~77-1a-2~~] 53-10-104, employed by the state shall comply with Section 67-19-12, except that the market comparability of state salary ranges for [~~peace~~] law enforcement officers and correctional officers shall be based on a total compensation survey of salary ranges and benefits of the three largest law enforcement agencies of any political subdivision of the state.

Section 65. Section **67-19-39** is amended to read:

67-19-39. Exemptions.

Peace officers, as defined under [~~Section 77-1a-1~~] Title 53, Chapter 10, Peace Officer Classifications, acting in their official capacity as peace officers in undercover roles and assignments, are exempt from the provisions of this act.

Section 66. Section **73-18-20** is amended to read:

73-18-20. Enforcement of chapter -- Authority to stop and board vessels --

Disregarding law enforcement signal to stop as misdemeanor -- Procedure for arrest.

(1) Any law enforcement officer authorized under Title [77] 53, Chapter [1a] 10, Peace Officer Classifications, may enforce the provisions of this chapter and the rules promulgated under this chapter.

(2) Any law enforcement officer authorized under Title [77] 53, Chapter [1a] 10, Peace Officer Classifications, has the authority to stop and board any vessel subject to this chapter, whether the vessel is on water or land. If that officer determines the vessel is overloaded, unseaworthy, or the safety equipment required by this chapter or rules of the board is not on the vessel, that officer may prohibit the launching of the vessel or stop the vessel from operating.

(3) An operator who, having received a visual or audible signal from a law enforcement officer authorized under Title [77] 53, Chapter [1a] 10, Peace Officer Classifications, to bring his vessel to a stop, operates his vessel in willful or wanton disregard of the signal so as to interfere with or endanger the operation of any vessel or endanger any person, or who attempts to flee or elude the officer whether by vessel or otherwise is guilty of a class A misdemeanor.

(4) Whenever any person is arrested for any violation of the provisions of this chapter or of the rules promulgated under this chapter, the procedure for arrest is the same as outlined in Sections 41-6-166 through 41-6-169.

Section 67. Section **76-2-303** is amended to read:

76-2-303. Entrapment.

(1) It is a defense that the actor was entrapped into committing the offense. Entrapment occurs when a [law enforcement] peace officer or a person directed by or acting in cooperation with the officer induces the commission of an offense in order to obtain evidence of the commission for prosecution by methods creating a substantial risk that the offense would be committed by one not otherwise ready to commit it. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.

(2) The defense of entrapment shall be unavailable when causing or threatening bodily injury

is an element of the offense charged and the prosecution is based on conduct causing or threatening the injury to a person other than the person perpetrating the entrapment.

(3) The defense provided by this section is available even though the actor denies commission of the conduct charged to constitute the offense.

(4) Upon written motion of the defendant, the court shall hear evidence on the issue and shall determine as a matter of fact and law whether the defendant was entrapped to commit the offense. Defendant's motion shall be made at least ten days before trial except the court for good cause shown may permit a later filing.

(5) Should the court determine that the defendant was entrapped, it shall dismiss the case with prejudice, but if the court determines the defendant was not entrapped, such issue may be presented by the defendant to the jury at trial. Any order by the court dismissing a case based on entrapment shall be appealable by the state.

(6) In any hearing before a judge or jury where the defense of entrapment is an issue, past offenses of the defendant shall not be admitted except that in a trial where the defendant testifies he may be asked of his past convictions for felonies and any testimony given by the defendant at a hearing on entrapment may be used to impeach his testimony at trial.

Section 68. Section **76-6-601** is amended to read:

76-6-601. Definitions.

As used in this chapter:

(1) "Merchandise" means any personal property displayed, held or offered for sale by a merchant.

(2) "Merchant" means an owner or operator of any retail mercantile establishment where merchandise is displayed, held or offered for sale and includes the merchant's employees, servants or agents.

(3) "Minor" means any unmarried person under 18 years of age.

(4) "Peace officer" has the same meaning as provided in [Section 77-1a-1] Title 53, Chapter 10, Peace Officer Classifications.

(5) "Premises of a retail mercantile establishment" includes, but is not limited to, the retail

mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment.

(6) "Retail mercantile establishment" means any place where merchandise is displayed, held, or offered for sale to the public.

(7) "Retail value" means the merchant's stated or advertised price of the merchandise.

(8) "Shopping cart" means those push carts of the types which are commonly provided by grocery stores, drug stores, or other mercantile establishments or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store.

(9) "Under-ring" means to cause the cash register or other sales recording device to reflect less than the retail value of the merchandise.

Section 69. Section **76-8-506** is amended to read:

76-8-506. Provision of false information to law enforcement officers, government agencies, or specified professionals.

A person is guilty of a class B misdemeanor if he:

(1) knowingly gives or causes to be given false information to any [~~law enforcement~~] peace officer with a purpose of inducing the officer to believe that another has committed an offense; or

(2) knowingly gives or causes to be given to any [~~law enforcement~~] peace officer, any state or local government agency or personnel, or to any person licensed in this state to practice social work, psychology, or marriage and family therapy, information concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

Section 70. Section **76-9-301.6** is amended to read:

76-9-301.6. Dog fighting exhibition -- Authority to arrest and take possession of dogs and property.

(1) A [~~sheriff, constable, police officer,~~] peace officer [~~, or deputy sheriff designated under Section 76-9-302]~~ as defined in Title 53, Chapter 10, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition[~~;~~] and, without a warrant, arrest all persons present.

(2) (a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection 76-9-301(1)(f) or Section 76-9-301.1.

(b) The officer, at the time of ~~[that]~~ the taking of property pursuant to Subsection (2)(a), shall state his name and provide other identifying information to the person in charge of the dogs or property taken.

(3) (a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section. ~~[That]~~

(b) The affidavit shall include:

~~[(a)]~~ (i) the name of the person charged in the complaint;

~~[(b)]~~ (ii) a description of all property taken;

~~[(c)]~~ (iii) the time and place of the taking of the property;

~~[(d)]~~ (iv) the name of the person from whom the property was taken;

~~[(e)]~~ (v) the name of the person who claims to own the property, if known; and

~~[(f)]~~ (vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section 76-9-301 or 76-9-301.1, and the grounds for the belief.

(4) (a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.

(b) The person ~~[so]~~ designated in Subsection (4)(a) shall assume immediate custody of ~~[that]~~ the property, and retain the property until further order of the court.

(c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.

(d) If the person charged is acquitted or discharged without conviction, the court shall, on

demand, order the property to be returned to its owner.

Section 71. Section **76-10-1504** is amended to read:

76-10-1504. Bus hijacking -- Assault with intent to commit hijacking -- Use of a dangerous weapon or firearm -- Penalties.

(1) A person is guilty of bus hijacking if he seizes or exercises control, by force or violence or threat of force or violence, of any bus within the state. Bus hijacking is a first degree felony.

(2) A person is guilty of assault with the intent to commit bus hijacking if he intimidates, threatens, or commits assault or battery toward any driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by such person. Assault with the intent to commit bus hijacking is a second degree felony.

(3) Any person who, in the commission of assault with intent to commit bus hijacking, uses a dangerous weapon, as defined in Section 76-1-601, is guilty of a first degree felony.

(4) Any person who boards a bus with a concealed dangerous weapon or firearm upon his person or effects is guilty of a second degree felony. The prohibition of this Subsection (4) does not apply to elected or appointed [~~law enforcement~~] peace officers or commercial security personnel who are in possession of weapons or firearms used in the course and scope of their employment, or a person licensed to carry a concealed weapon; nor shall the prohibition apply to persons in possession of weapons or firearms with the consent of the owner of the bus or his agent, or the lessee or bailee of the bus.

Section 72. Section **76-10-1505** is amended to read:

76-10-1505. Bombing or placing bomb or explosive in, upon or near terminal or bus -- Threats -- Firearms and missiles.

(1) Any person who bombs or plants or places any bomb or other highly explosive substance or device in, upon or near any terminal or bus in which a person or persons are located or being transported is guilty of a first degree felony.

(2) Any person who bombs or plants or places any bomb or other highly explosive substance or device in, upon or near any terminal or bus in which there are stored, or shipped or being prepared for shipment, any goods, wares, merchandise or anything of value is guilty of a second degree

felony.

(3) Any person who threatens a violation of subsection (1) or (2) is guilty of a third degree felony.

(4) Any person who discharges a firearm or hurls a missile at or into any bus or terminal shall be guilty of a third degree felony. The prohibition of this subsection does not apply to elected or appointed [~~law enforcement~~] peace officers or commercial security personnel who discharge firearms or hurl missiles in the course and scope of their employment.

Section 73. Section **76-10-1507** is amended to read:

76-10-1507. Exclusion of persons without bona fide business from terminal -- Firearms and dangerous materials -- Surveillance devices and seizure of offending materials -- Detention of violators -- Private security personnel.

(1) In order to provide for the safety, welfare and comfort of passengers, a bus company may refuse admission to terminals to any person not having bona fide business within the terminal. Any such refusal shall not be inconsistent or contrary to state or federal laws or regulations, or to any ordinance of the political subdivision in which the terminal is located. An authorized bus company representative may require any person in a terminal to identify himself and state his business. Failure to comply with such request or to state an acceptable business purpose shall be grounds for the representative to request that the person depart the terminal. Any person who refuses to comply with such a request shall be guilty of a class C misdemeanor.

(2) Any person who carries a concealed dangerous weapon, firearm, or any explosive, highly inflammable or hazardous materials or devices into a terminal or aboard a bus shall be guilty of a third degree felony. The bus company may employ reasonable means, including mechanical, electronic or x-ray devices to detect such items concealed in baggage or upon the person of any passenger. Upon the discovery of any such item, the company may obtain possession and retain custody thereof until it is transferred to [~~law enforcement officers~~] a peace officer.

(3) An authorized bus company representative may detain within a terminal or bus any person violating the provisions of this act for a reasonable time until law enforcement authorities arrive. Such detention shall not constitute unlawful imprisonment and neither the bus company nor

the representative shall be civilly or criminally liable upon grounds of unlawful imprisonment or assault, provided that only reasonable and necessary force is exercised against any person so detained.

(4) A bus company may employ or contract for private security personnel. Such personnel may detain within a terminal or bus any person violating the provisions of this act for a reasonable time until law enforcement authorities arrive, and may use reasonable and necessary force in subduing or detaining any person violating this act.

Section 74. Section **77-7-13** is amended to read:

77-7-13. Arrest without warrant by peace officer -- Reasonable grounds, what constitutes -- Exemption from civil or criminal liability.

(1) A peace officer may arrest, without warrant, any person [he] the officer has reasonable ground to believe has committed a theft under Title 76, Chapter 6, Part 8, Library Theft, or of goods held or displayed for sale.

(2) A charge of theft made to a peace officer under Part 8, Library Theft, by an employee of a library, or by a merchant, merchant's employee, servant, or agent constitutes a reasonable ground for arrest, and the [police] peace officer is relieved from any civil or criminal liability.

Section 75. Section **77-9-3** is amended to read:

77-9-3. Authority of peace officer of this state beyond normal jurisdiction.

(1) Any peace officer [duty] authorized by any governmental entity of this state may exercise a peace officer's authority beyond the limits of such officer's normal jurisdiction as follows:

- (a) when in fresh pursuit of an offender for the purpose of arresting and holding that person in custody or returning the suspect to the jurisdiction where the offense was committed;
- (b) when a public offense is committed in such officer's presence;
- (c) when participating in an investigation of criminal activity which originated in [such] the officer's normal jurisdiction in cooperation with the local authority; or
- (d) when called to assist peace officers of another jurisdiction.

(2) (a) Any peace officer, prior to taking [such] any action authorized [action] by Subsection (1), shall notify and receive approval of the local law enforcement authority, or if [such] the prior

contact is not reasonably possible, notify the local law enforcement authority as soon as reasonably possible.

(b) Unless specifically requested to aid a [police] peace officer of another jurisdiction or otherwise as provided for by law, no legal responsibility for a [police] peace officer's action outside his normal jurisdiction [and], except as provided [herein] in this section, shall attach to the local law enforcement authority.

Section 76. Section **77-23-102** is amended to read:

77-23-102. Definitions.

As used in this part:

(1) "Administrative traffic checkpoint" means a roadblock procedure where enforcement officers stop all, or a designated sequence of, motor vehicles traveling on highways and roads and subject those vehicles to inspection or testing and the drivers or occupants to questioning or the production of documents.

(2) "Command level officer" includes all sheriffs, heads of law enforcement agencies, and all supervisory enforcement officers of sergeant rank or higher.

(3) "Emergency circumstances" means circumstances where enforcement officers reasonably believe road conditions, weather conditions, or persons present a significant hazard to persons or the property of other persons.

(4) "Enforcement officer" includes:

(a) peace officers as defined in Title [77] 53, Chapter [1a] 10, Peace Officer Classifications;

(b) correctional officers as defined in Title [77] 53, Chapter [1a] 10;

(c) special function officers as defined and under the restrictions of Title [77] 53, Chapter [1a] 10; and

(d) federal [peace] officers as defined in Title [77] 53, Chapter [1a] 10.

(5) "Magistrate" includes all judicial officers enumerated in Subsection 77-1-3(4).

(6) "Motor vehicle" includes all vehicles as defined in Title 41, Chapter 1a.

Section 77. Section **77-23-204** is amended to read:

77-23-204. Examination of complainant and witnesses -- Witness not in physical

presence of magistrate -- Duplicate original warrants -- Return.

(1) All evidence to be considered by a magistrate in the issuance of a search warrant shall be given on oath and either reduced to writing or recorded verbatim. Transcription of the recorded testimony need not precede the issuance of the warrant. Any person having standing to contest the search may request and shall be provided with a transcription of the recorded testimony in support of the application for the warrant.

(2) When the circumstances make it reasonable to do so in the absence of an affidavit, a search warrant may be issued upon sworn oral testimony of a person who is not in the physical presence of the magistrate, provided the magistrate is satisfied that probable cause exists for the issuance of the warrant. The sworn oral testimony may be communicated to the magistrate by telephone or other appropriate means and shall be recorded and transcribed. After transcription, the statement shall be certified by the magistrate and filed with the court. This statement shall be deemed to be an affidavit for purposes of this section.

(a) The grounds for issuance and contents of the warrant issued pursuant to Subsection (2) shall be those required by this chapter. Prior to issuance of the warrant, the magistrate shall require the [law enforcement] peace officer or the prosecuting attorney who is requesting the warrant to read to him verbatim the contents of the warrant. The magistrate may direct that specific modifications be made in the warrant. Upon approval, the magistrate shall direct the [law enforcement] peace officer or the prosecuting attorney for the government who is requesting the warrant to sign the magistrate's name on the warrant. This warrant shall be called a duplicate original warrant and shall be deemed a warrant for purposes of this chapter. In these cases the magistrate shall cause to be made an original warrant. The magistrate shall enter the exact time of issuance of the duplicate original warrant on the face of the original warrant.

(b) Return of a duplicate original warrant and the original warrant shall be in conformity with this chapter. Upon return, the magistrate shall require the person who gave the sworn oral testimony establishing the grounds for issuance of the warrant to sign a copy of the transcript.

(3) If probable cause is shown, the magistrate shall issue a search warrant.

Section 78. Section **77-23a-3** is amended to read:

77-23a-3. Definitions.

As used in this chapter:

(1) "Aggrieved person" means a person who was a party to any intercepted wire, electronic, or oral communication, or a person against whom the interception was directed.

(2) "Aural transfer" means any transfer containing the human voice at any point between and including the point of origin and the point of reception.

(3) "Communications common carrier" means any person engaged as a common carrier for hire in intrastate, interstate, or foreign communication by wire or radio, including a provider of electronic communication service. However, a person engaged in radio broadcasting is not, when that person is so engaged, a communications common carrier.

(4) "Contents" when used with respect to any wire, electronic, or oral communication includes any information concerning the substance, purport, or meaning of that communication.

(5) "Electronic communication" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:

(a) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

(b) any wire or oral communications;

(c) any communication made through a tone-only paging device; or

(d) any communication from an electronic or mechanical device that permits the tracking of the movement of a person or object.

(6) "Electronic communications service" means any service that provides for users the ability to send or receive wire or electronic communications.

(7) "Electronic communications system" means any wire, radio, electromagnetic, photoelectronic, or photo-optical facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of the communication.

(8) "Electronic, mechanical, or other device" means any device or apparatus that may be

used to intercept a wire, electronic, or oral communication other than:

(a) any telephone or telegraph instrument, equipment or facility, or a component of any of them:

(i) furnished by the provider of wire or electronic communications service or by the subscriber or user, and being used by the subscriber or user in the ordinary course of its business; or

(ii) being used by a provider of wire or electronic communications service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties; or

(b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(9) "Electronic storage" means:

(a) any temporary intermediate storage of a wire or electronic communication incident to the electronic transmission of it; and

(b) any storage of the communication by an electronic communications service for the purposes of backup protection of the communication.

(10) "Intercept" means the acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

(11) "Investigative or law enforcement officer" means any officer of the state or of a political subdivision, who by law may conduct investigations of or make arrests for offenses enumerated in this chapter, or any federal [peace] officer as defined in Section [~~77-1a-5~~] 53-10-106, and any attorney authorized by law to prosecute or participate in the prosecution of these offenses.

(12) "Judge of competent jurisdiction" means a judge of a district court of the state.

(13) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception, under circumstances justifying that expectation, but does not include any electronic communication.

(14) "Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which the device is

attached. "Pen register" does not include any device used by a provider or customer of a wire or electronic communication service for billing or recording as an incident to billing, for communications services provided by the provider, or any device used by a provider or customer of a wire communications service for cost accounting or other like purposes in the ordinary course of its business.

(15) "Person" means any employee or agent of the state or a political subdivision, and any individual, partnership, association, joint stock company, trust, or corporation.

(16) "Readily accessible to the general public" means, regarding a radio communication, that the communication is not:

- (a) scrambled or encrypted;
- (b) transmitted using modulation techniques with essential parameters that have been withheld from the public with the intention of preserving the privacy of the communication;
- (c) carried on a subcarrier or signal subsidiary to a radio transmission;
- (d) transmitted over a communications system provided by a common carrier, unless the communication is a tone-only paging system communication; or
- (e) transmitted on frequencies allocated under Part 25, Subpart D, E, or F of Part 74, or Part 94, Rules of the Federal Communications Commission unless, in the case of a communication transmitted on a frequency allocated under Part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio.

(17) "Trap and trace device" means a device, process, or procedure that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication is transmitted.

(18) "User" means any person or entity who:

- (a) uses an electronic communications service; and
- (b) is authorized by the provider of the service to engage in the use.

(19) (a) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of the connection

in a switching station, furnished or operated by any person engaged as a common carrier in providing or operating these facilities for the transmission of intrastate, interstate, or foreign communications.

(b) "Wire communication" includes the electronic storage of the communication, but does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

Section 79. Section **77-27-26** is amended to read:

77-27-26. Deputization of agents to effect return of parole and probation violators.

(1) (a) The official administrator of the interstate compact for the supervision of parolees and probationers is authorized and empowered to deputize any person to act as an officer and agent of this state in [effecting] carrying out the return of any person who has violated the terms and conditions of parole or probation as granted by this state.

(b) In any matter relating to the return of [such] a [person] violin described in Subsection (1)(a), any deputized agent [so-deputized] shall have all the powers of a [police] peace officer of this state.

(2) Any deputization of any person pursuant to this [act] section shall be in writing and [any person authorized to act as an agent of this state pursuant to this act] the deputized agent shall:

(a) carry formal evidence of his deputization; and [shall]

(b) produce the [same] evidence of deputization upon demand.

(3) The official administrator of the interstate compact is authorized, subject to the approval of the governor, to enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole or probation as granted by this state.

Section 80. Section **77-39-101** is amended to read:

77-39-101. Investigation of sales of alcohol and tobacco to under age persons.

(1) (a) A peace officer, as defined by [~~Section 77-1a-1~~] Title 53, Chapter 10, Peace Officer Classifications, may investigate the possible violation of Section 32A-12-203 or Section 76-10-104 by requesting a person under the legal age to attempt to purchase alcohol, as provided in Section 32A-12-203, or tobacco, as provided in Section 76-10-104, to enter into and attempt to purchase or

make a purchase of alcohol or tobacco products from a retail establishment.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the person requested to make the purchase.

(c) Immediately following the purchase or attempted purchase, or as soon as practical, the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase alcohol or tobacco.

(d) If a citation or information is issued, it shall be issued within seven days of the purchase.

(2) (a) If a person under the age of 18 years old is requested to attempt a purchase, a written consent of that person's parent or guardian shall be obtained prior to that person participating in any attempted purchase.

(b) A person requested by the peace officer to attempt a purchase may be a trained volunteer or receive payment but may not be paid based on the number of successful purchases of alcohol or tobacco.

(3) The person requested by the peace officer to attempt a purchase and anyone accompanying the person attempting a purchase may not during the attempted purchase misrepresent the age of the person by false or misleading identification documentation in attempting the purchase.

(4) A person requested to purchase alcohol or tobacco pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol or tobacco if a peace officer directs, supervises, and monitors the person.

(5) (a) Except as provided in Subsection (5)(b), a purchase attempted under this section shall be conducted on a random basis.

(b) Nothing in this section shall prohibit an investigation if there is reasonable suspicion to believe the retail establishment has sold alcohol or tobacco to a person under the age established by Section 32A-12-203 or 76-10-104.

(6) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report shall include:

~~(a)~~ (i) the name of the supervising peace officer;

[(b)] (ii) the name of the person attempting the purchase;

[(c)] (iii) a photograph of the person attempting the purchase showing how that person appeared at the time of the attempted purchase;

[(d)] (iv) the name and description of the cashier or proprietor from whom the person attempted the purchase;

[(e)] (v) the name and address of the retail establishment; and

[(f)] (vi) the date and time of the attempted purchase.

Section 81. Section **78-5-111** is amended to read:

78-5-111. Justice court staff to be provided.

(1) Each county, city, or town creating and maintaining a justice court shall provide:

(a) sufficient staff public prosecutors to attend the court and perform the duties of prosecution before the justice court;

(b) adequate funding for the costs of defense for persons charged with a public offense who are determined by the court to be indigent under Title 77, Chapter 32; and

(c) sufficient local [~~law enforcement~~] peace officers to attend the justice court when required and provide security for the court.

(2) The county attorney or district attorney may appoint city prosecutors as deputies to prosecute state offenses in municipal justice courts.

Section 82. Section **78-27-33** is amended to read:

78-27-33. Statement of injured person -- When inadmissible as evidence.

Except as otherwise provided in this act, any statement, either written or oral, obtained from an injured person within 15 days of an occurrence or while this person is confined in a hospital or sanitarium as a result of injuries sustained in the occurrence, and which statement is obtained by a person whose interest is adverse or may become adverse to the injured person, except a [~~law enforcement~~] peace officer, shall not be admissible as evidence in any civil proceeding brought by or against the injured person for damages sustained as a result of the occurrence, unless:

(1) a written verbatim copy of the statement has been left with the injured party at the time the statement was taken; and

(2) the statement has not been disavowed in writing within fifteen days of the date of the statement or within fifteen days after the date of the injured person's initial discharge from the hospital or sanitarium in which the person has been confined, whichever date is later.

Section 83. Section **78-29-101** is amended to read:

78-29-101. Definitions.

For purposes of this part:

(1) "Blood or blood-contaminated body fluids" include blood, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.

(2) "Emergency medical services provider" means an emergency medical technician as defined in Section 26-8-2, local fire department personnel, or county jail personnel, who provide prehospital emergency medical care for an emergency medical services agency either as an employee or as a volunteer.

(3) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or public safety officer.

(4) "HIV" means the Human Immunodeficiency Virus infection as determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot or other methods approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(5) "Public safety officer" means~~[:]~~ a peace officer as defined in Title 53, Chapter 10, Peace Officer Classifications.

~~[(a) a peace officer, as defined in Section 77-1a-1;]~~

~~[(b) a reserve and auxiliary officer, as defined in Section 77-1a-3; and]~~

~~[(c) a special function officer, as defined in Section 77-1a-4.]~~

(6) "Significantly exposed" means exposure of the body of one person to HIV or other blood-borne pathogens from the blood of another person by:

(a) percutaneous inoculation; or

(b) contact with an open wound, nonintact skin which includes chapped, abraded, weeping, or dermatitic skin, or mucous membranes to blood and blood-contaminated body fluids.

Section 84. Section **78-38-4.6** is amended to read:

78-38-4.6. Enforcement.

Any ~~[peace]~~ law enforcement officer specified in Section ~~[77-1a-1]~~ 53-10-103, or ~~[law enforcement officer,]~~ ranger, or special agent of the United States Forest Service or the United States Bureau of Land Management may:

(1) stop any vehicle or means of conveyance, including common carriers, containing timber, forest products, or native vegetation upon any road or highway of this state for the purpose of making an inspection and investigation but may not unduly detain a driver of such vehicle or means of conveyance;

(2) inspect the timber, forest product, or native vegetation in any vehicle, or other means of conveyance, including common carrier, to determine whether the provisions of this chapter have been complied with;

(3) seize and hold any timber, forest product, or native vegetation harvested, removed, or transported in violation of this chapter; and

(4) sell or dispose of the timber, forest product, or native vegetation as provided by rule by the appropriate agency.

Section 85. **Repealer.**

This act repeals:

Section **76-9-302, Society to prevent cruelty to animals may designate deputy sheriff.**

Section **77-1a-3, Reserve and auxiliary officers.**

Section 86. **Coordination clause.**

If this bill and H.B. 60, Compensation for Public Safety Dispatchers, both pass, it is the intent of the Legislature that the reference in Subsection 67-19-12.3(2) to "peace" shall be deleted and "law enforcement" shall be inserted in its place.