

1 **PROTECTION OF CONSTITUTIONALLY**
2 **GUARANTEED ACTIVITIES IN CERTAIN**
3 **PRIVATE VENUES**

4 2007 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Mark B. Madsen**

7 House Sponsor: Curtis Oda

8
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies Title 34, Labor in General, by enacting Title 34, Chapter 44,
12 Protection of Activities in Private Vehicles.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides definitions;
- 16 ▶ prohibits certain persons from creating or enforcing a policy that prohibits the
17 storage of firearms in a motor vehicle parked on property owned, leased, or
18 otherwise controlled by the person if:
- 19 • the individual storing the firearm is legally entitled to possess and transport the
20 firearm;
 - 21 • the vehicle is locked, or the firearm is in a locked container; and
 - 22 • the firearm is not in plain view;
- 23 ▶ provides exceptions for persons with secured lots under certain circumstances;
- 24 ▶ prohibits certain persons from creating or enforcing a policy that prohibits the
25 display or possession of items in or on a vehicle parked on property owned, leased,
26 or otherwise controlled by the person if the policy results in a substantial burden on
27 the free exercise of religion;



28 ▶ provides that a person, property owner, tenant, employer, business, or other legal
29 entity may not be liable in any civil action for any occurrence which results from, is
30 connected with, or is incidental to the use of a firearm that is stored or transported in
31 a motor vehicle in association with this chapter;

32 ▶ permits an individual to bring a civil action to enforce the requirements of this
33 chapter;

34 ▶ permits a court to grant injunctive relief, declaratory relief, damages, costs, and
35 attorney fees in association with a suit brought to enforce the requirements of this
36 chapter;

37 ▶ provides that the chapter does not apply to the following:

- 38 • school premises;
- 39 • state and local government entities; and
- 40 • religious organizations;

41 ▶ permits the attorney general to bring an action to enforce the chapter and to request
42 damages on behalf of any individual that has suffered loss due to a violation of this
43 chapter; and

44 ▶ makes technical changes.

45 **Monies Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 None

49 **Utah Code Sections Affected:**

50 ENACTS:

51 **34-44-101**, Utah Code Annotated 1953

52 **34-44-102**, Utah Code Annotated 1953

53 **34-44-103**, Utah Code Annotated 1953

54 **34-44-104**, Utah Code Annotated 1953

55 **34-44-105**, Utah Code Annotated 1953

56 **34-44-106**, Utah Code Annotated 1953

57 **34-44-107**, Utah Code Annotated 1953



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

60 Section 1. Section **34-44-101** is enacted to read:

61 **CHAPTER 44. PROTECTION OF ACTIVITIES IN PRIVATE VEHICLES**

62 **34-44-101. Title.**

63 This chapter is known as "Protection of Activities in Private Vehicles."

64 Section 2. Section **34-44-102** is enacted to read:

65 **34-44-102. Definitions.**

66 As used in this chapter:

67 (1) "Firearm" has the same meaning as provided in Section 76-10-501.

68 (2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.

69 (3) "Person" means an individual, property owner, landlord, tenant, employer, business
70 entity, or other legal entity.

71 Section 3. Section **34-44-103** is enacted to read:

72 **34-44-103. Protection of certain activities -- Firearms -- Free exercise of religion.**

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

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

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

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

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

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

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

88 (a) (i) the property designated for motor vehicle parking is secured by a fence or other
89 physical barrier; and

90 (ii) access to the property is designated for motor vehicle parking controlled by a guard
91 or other security measure; and

92 (b) the person provides, or there is otherwise available, one of the following, in a
93 location on or adjacent to the secured parking area described in Subsection (2)(a):

94 (i) alternative parking for individuals who desire to transport, possess, receive, transfer,
95 or store a firearm in the individual's motor vehicle; or

96 (ii) a secured and monitored storage location where the individual may securely store a
97 firearm prior to proceeding with the vehicle into the secured parking area.

98 Section 4. Section **34-44-104** is enacted to read:

99 **34-44-104. Protection from liability.**

100 A person that owns or controls a parking area that is subject to this chapter and that
101 complies with the requirements of Section 34-44-103 is not liable in any civil action for any
102 occurrence which results from, is connected with, or is incidental to the use of a firearm which
103 is being lawfully stored in accordance with Subsection 34-44-103(1)(a), unless that person
104 commits a criminal act involving the use of the firearm.

105 Section 5. Section **34-44-105** is enacted to read:

106 **34-44-105. Cause of action for noncompliance -- Remedies.**

107 (1) An individual who is injured, physically or otherwise, as a result of any policy or
108 rule prohibited by Section 34-44-103, may bring a civil action in a court of competent
109 jurisdiction against any person that violates the provisions of Section 34-44-103.

110 (2) Any individual who asserts a claim under this section is entitled to request:

111 (a) declaratory relief;

112 (b) temporary or permanent injunctive relief to prevent the threatened or continued
113 violation;

114 (c) recovery for actual damages sustained; and

115 (d) if the court determines that the circumstances are appropriate, punitive damages.

116 (3) The prevailing party in an action brought under this chapter may recover its court
117 costs and reasonable attorney fees incurred.

118 (4) Nothing in this chapter shall be construed or held to affect any rights or claims
119 made in relation to Title 34A, Chapter 2, Workers' Compensation Act.

120 Section 6. Section **34-44-106** is enacted to read:

121 **34-44-106. Enforcement by attorney general.**

122 (1) The attorney general may bring an action to enforce this chapter and may request
123 any relief that is provided for under Section 34-44-105, including a request for damages in
124 behalf of any individual suffering loss because of a violation of this chapter.

125 (2) Upon entry of final judgment for a cause of action brought under this section, the
126 attorney general shall award restitution, when appropriate, to any individual suffering loss
127 because of a violation of this chapter if proof of loss is submitted to the satisfaction of the
128 court.

129 Section 7. Section **34-44-107** is enacted to read:

130 **34-44-107. Exemptions -- Limitations on chapter -- School premises --**
131 **Government entities -- Religious organizations.**

132 (1) (a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the
133 provisions of this chapter.

134 (b) Possession of a firearm on or about school premises shall be subject to the
135 provisions of Section 76-10-505.5.

136 (2) Government entities, including a local authority or state entity, are subject to the
137 requirements of Title 63, Chapter 98, Firearm Laws, but are otherwise exempt from the
138 provisions of this chapter.

139 (3) Religious organizations, including religious organizations acting as an employer,
140 are exempt from, and are not subject to the provisions of this chapter.

Legislative Review Note
as of 2-15-07 11:25 AM

Office of Legislative Research and General Counsel

Fiscal Note**S.B. 78 - Protection of Constitutionally Guaranteed Activities in Certain
Private Venues**

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
