

1 **RIGHTS OF CITIZENS TO CARRY**
2 **FIREARMS IN DECLARED EMERGENCY**

3 2007 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Carl Wimmer

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to the lawful possession, transfer, sale, transport,
11 storage, display, or use of firearms during a declared state of emergency or local
12 emergency.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ provides that during a declared state of emergency or local emergency neither the
16 governor nor an agency of a governmental entity or political subdivision may
17 impose restrictions on the lawful possession, transfer, sale, transport, storage,
18 display, or use of a firearm or ammunition;

19 ▶ provides that during a declared state of emergency an individual, while purporting
20 to act on behalf of the state or a political subdivision, may not confiscate a privately
21 owned firearm of another individual;

22 ▶ provides exceptions to the confiscation prohibition; and

23 ▶ provides a civil remedy for violation of the confiscation prohibition.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 Utah Code Sections Affected:

29 ENACTS:

30 63-5a-12, Utah Code Annotated 1953



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

33 Section 1. Section 63-5a-12 is enacted to read:

34 **63-5a-12. Prohibition of restrictions on and confiscation of a firearm or**
35 **ammunition during an emergency.**

36 (1) As used in this section:

37 (a) (i) "Confiscate" means for an individual in Utah to intentionally deprive another of
38 a privately owned firearm.

39 (ii) "Confiscate" does not include the taking of a firearm from an individual:

40 (A) in self-defense;

41 (B) possessing a firearm while the individual is committing a felony or misdemeanor;

42 or

43 (C) who may not, under state or federal law, possess the firearm.

44 (b) "Firearm" has the same meaning as defined in Subsection 76-10-501(9).

45 (2) During a declared state of emergency or local emergency under this chapter:

46 (a) neither the governor nor an agency of a governmental entity or political subdivision
47 of the state may impose restrictions on the lawful possession, transfer, sale, transport, storage,
48 display, or use of a firearm or ammunition; and

49 (b) an individual, while purporting to act on behalf of the state or a political
50 subdivision of the state, may not confiscate a privately owned firearm of another individual.

51 (3) (a) An individual who has a firearm confiscated in violation of Subsection (2)(a)
52 may bring a civil action in a court having the appropriate jurisdiction:

53 (i) for damages, in the maximum amount of \$10,000, against a person who allegedly
54 violates Subsection (2)(b);

55 (ii) for a civil penalty, in the amount of \$5,000 per violation, against a person who
56 violates Subsection (2)(b); and

57 (iii) for return of the confiscated firearm.

58 (b) The court shall award costs and reasonable attorney fees to the prevailing party,

59 other than the state or a political subdivision of the state, in an action brought under Subsection
60 (3)(a).

Legislative Review Note
as of 2-15-07 4:28 PM

Office of Legislative Research and General Counsel

S.B. 201 - Rights of Citizens to Carry Firearms in Declared Emergency

Fiscal Note

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.
