

# HB0028S01 compared with HB0028

~~{deleted text}~~ shows text that was in HB0028 but was deleted in HB0028S01.

inserted text shows text that was not in HB0028 but was inserted into HB0028S01.

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Representative Don L. Ipson proposes the following substitute bill:

## CAMPUS SAFETY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

~~{Committee Note:~~

~~—The Law Enforcement and Criminal Justice Interim Committee recommended this bill.~~

~~{General Description:~~

This bill modifies the Criminal Code by amending provisions relating to persons interfering or trespassing on property owned by an institution of higher education.

### Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that a chief administrative officer may order a person to leave property that is owned, operated, or controlled by an institution of higher education if the person:
  - acts or intends to do certain things; or
  - is reckless as to whether the person's actions will cause fear for the safety of

## HB0028S01 compared with HB0028

another;

- ▶ provides that a person is guilty of criminal trespass upon an institution of higher education if the person:
  - enters or remains on property that is owned, operated, or controlled by an institution of higher education after being ordered to leave; or
  - enters or remains without authorization upon property that is owned, operated, or controlled by an institution of higher education if notice against entry or remaining has been given;
- ▶ provides that the mere carrying or possession of a firearm does not warrant an order to leave:
- ▶ repeals certain provisions relating to interfering or intending to interfere with campus activities, violating rules and regulations of the institution, and failing to leave when ordered; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**76-8-701**, as last amended by Laws of Utah 2010, Chapter 211

**76-8-702**, as enacted by Laws of Utah 1973, Chapter 196

**76-8-705**, as enacted by Laws of Utah 1973, Chapter 196

**76-8-709**, as enacted by Laws of Utah 1973, Chapter 196

**76-8-717**, as enacted by Laws of Utah 1973, Chapter 196

REPEALS AND REENACTS:

**76-8-703**, as enacted by Laws of Utah 1973, Chapter 196

REPEALS:

**76-8-704**, as enacted by Laws of Utah 1973, Chapter 196

**76-8-708**, as enacted by Laws of Utah 1973, Chapter 196

**76-8-710**, as enacted by Laws of Utah 1973, Chapter 196

## HB0028S01 compared with HB0028

76-8-711, as enacted by Laws of Utah 1973, Chapter 196

76-8-712, as enacted by Laws of Utah 1973, Chapter 196

76-8-713, as enacted by Laws of Utah 1973, Chapter 196

76-8-718, as enacted by Laws of Utah 1973, Chapter 196

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

Section 1. Section 76-8-701 is amended to read:

**76-8-701. Definitions.**

For the purposes of this part:

(1) "Chief administrative officer" means the president of [~~a private or state~~] an institution of higher education or [~~the officer~~] a person designated by the president [~~or by the governing board~~] of the institution to administer the affairs of a campus or other facility owned by the institution or operated or controlled by the governing board of the institution~~].~~

[~~(2) "School" or "institution of higher education" means any private institution of higher education or any state institution of higher education as defined in Section 53B-1-102.~~]

[~~(3) "State institution of higher education" includes the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State College of Utah, Utah Valley University, Salt Lake Community College, and any other university or college which may be established and maintained by the state, and includes any branch or affiliated institution and any campus or facility owned, operated, or controlled by the governing board of the university or college.~~]

(2) "Enter" means intrusion of the entire body.

(3) "Institution" or "institution of higher education" means:

(a) a state institution of higher education as defined in Section 53B-3-102; or

(b) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

Section 2. Section 76-8-702 is amended to read:

**76-8-702. Purpose.**

It is the purpose of this part to:

(1) supplement and clarify the power vested in the governing board of each [~~private or state~~] institution of higher education; and [~~to~~]

## HB0028S01 compared with HB0028

(2) regulate, conduct, and enforce law and order on property owned, operated, or controlled by [it] each institution of higher education.

Section 3. Section **76-8-703** is repealed and reenacted to read:

### **76-8-703. Criminal trespass upon an institution of higher education.**

(1) (a) A chief administrative officer may order a person to leave property that is owned, operated, or controlled by an institution of higher education if the person:

(i) acts **or if the chief administrative officer has reasonable cause to believe that the person intends to act** to:

(A) cause injury to a person;

(B) cause damage to property;

(C) commit a crime;

(D) interfere with the peaceful conduct of the activities of the institution;

(E) violate any rule or regulation of the institution if that rule or regulation is not in conflict with state law; or

(F) disrupt the institution, its pupils, or the institution's activities; or

(ii) is reckless as to whether the person's actions will cause fear for the safety of another.

(b) A person is guilty of criminal trespass upon an institution of higher education if the person enters or remains on property that is owned, operated, or controlled by an institution of higher education after being ordered to leave under Subsection (1)(a).

**(c) The mere carrying or possession of a firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the firearm was carried or possessed unlawfully or with criminal intent, does not warrant an order to leave under Subsection (1)(a).**

(2) A person is guilty of criminal trespass upon an institution of higher education if the person enters or remains without authorization upon property that is owned, operated, or controlled by an institution of higher education if notice against entry or remaining has been given by:

(a) personal communication to the person by the chief administrative officer or a person with apparent authority to act for the institution;

(b) the posting of signs reasonably likely to come to the attention of trespassers;

## HB0028S01 compared with HB0028

(c) fencing or other enclosure obviously designed to exclude trespassers; or

(d) a current order of suspension or expulsion.

(3) If ~~fa person~~an employee or student of an institution of higher education is ordered to leave under Subsection (1) or receives a notice against entry or remaining under Subsection (2) ~~and the person is an employee or student of the institution of higher education~~, the institution of higher education shall afford the ~~student or~~employee ~~due~~or student the process ~~fin accordance with~~required by the institution of higher education's rules and regulations.

(4) A person who violates this section shall be punished as provided in Section 76-8-717.

Section 4. Section **76-8-705** is amended to read:

### **76-8-705. Willful interference with lawful activities of students or faculty.**

~~[(1) If any person on the campus of a private or state institution of higher education or upon any other facility owned or controlled by the governing board of the institution, willfully]~~

A person is guilty of a class C misdemeanor if, on property that is owned, operated, or controlled by an institution of higher education, the person willfully:

(1) denies to ~~[students, school officials, employees, or invitees]~~ a student, school official, employee, or invitee lawful:

(a) ~~[Lawful]~~ freedom of movement~~];~~;

(b) ~~[Lawful]~~ use of the property or facilities~~];~~ or

(c) ~~[Lawful]~~ ingress or egress to the institution's physical facilities~~]; that person is guilty of a class C misdemeanor.];~~

~~[(2) If any person upon the campus of a private or state institution of higher education or upon any other facility owned or controlled by the governing board of the institution, willfully]~~

(2) impedes ~~[the faculty or staff]~~ a faculty or staff member of the institution in the lawful performance of ~~[their]~~ the member's duties~~];~~ or ~~[willfully]~~

(3) impedes a student of the institution in the lawful pursuit of ~~[his]~~ the student's educational activities~~]; that person is guilty of a class C misdemeanor].~~

Section 5. Section **76-8-709** is amended to read:

### **76-8-709. Enforcement of laws by local agencies not limited.**

## HB0028S01 compared with HB0028

Nothing in this ~~[act]~~ part shall limit:

(1) the right or duty of any local law enforcement agency to enforce the law which it had prior to this enactment~~[-];~~ or

(2) the right of any state or local law enforcement agency to enforce the laws of this state.

Section 6. Section **76-8-717** is amended to read:

### **76-8-717. Violations -- Classifications of offenses.**

~~[Any student or employee]~~ Except as otherwise provided, a person found guilty of a violation of ~~[those sections which specify this section as prescribing the punishment]~~ this part shall be punished as follows:

(1) ~~[Upon]~~ upon the first and second conviction, ~~[shall be punished as]~~ the person is guilty of a class B misdemeanor~~[-];~~ or

(2) ~~[If the defendant has]~~ if the person has previously been convicted two or more times of a violation of ~~[any offense specified punishable under this section, he shall be punished for]~~ this part, the person is guilty of a class A misdemeanor.

### Section 7. **Repealer.**

This bill repeals:

**Section 76-8-704, Violation of rule or regulation of institution -- Failure to leave when ordered.**

**Section 76-8-708, Enforcement of rules or regulations of institutions -- Privilege of information acquired in proceedings.**

**Section 76-8-710, Disruption of activities in or near school building -- Failure to leave or re-entry.**

**Section 76-8-711, Withdrawal of consent to remain on campus or facility -- Report and confirmation of action -- Reinstatement -- Hearing -- Re-entry -- Powers of suspension, dismissal or expulsion not affected.**

**Section 76-8-712, Re-entry of campus or facility after denial of access as condition of suspension or dismissal -- Presumption of knowledge.**

**Section 76-8-713, Person not a student, officer or employee -- Re-entry of campus or facility after direction to leave.**

**Section 76-8-718, Enforcement rights of state or local law enforcement authority**

**HB0028S01 compared with HB0028**

**not limited.**

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**Legislative Review Note**

~~as of 11-14-12 12:53 PM~~

~~Office of Legislative Research and General Counsel}~~