

HB0195S01 compared with HB0195

{Omitted text} shows text that was in HB0195 but was omitted in HB0195S01

inserted text shows text that was not in HB0195 but was inserted into HB0195S01

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1 **Firearm Retention Amendments**

. 2025 GENERAL SESSION

. STATE OF UTAH

. **Chief Sponsor: Matt MacPherson**

. Senate Sponsor: Daniel McCay

2

3 **LONG TITLE**

4 **General Description:**

5 This bill address the retention in evidence of seized firearms.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ prohibits a plea in abeyance from allowing a condition of the plea that the defendant forfeits the defendant's firearms in certain circumstances;

10 ▶ requires firearms seized by law enforcement from an individual as a result of the individual committing a criminal offense to be returned to the individual if the individual may lawfully possess the firearm and is not charged with a crime that would make the individual a restricted person; {and}

14 ▶ contains a coordination clause to coordinate technical changes between this bill, H.B. 21, Criminal Code Recodification and Cross References, and H.B. 133, Dangerous Weapons Amendments; and

14 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

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20 This bill provides a coordination clause.

23 AMENDS:

24 **76-10-529** , as last amended by Laws of Utah 2024, Chapter 332 , as last amended by Laws of Utah
2024, Chapter 332

25 **77-2a-2** , as last amended by Laws of Utah 2024, Chapter 208 , as last amended by Laws of Utah
2024, Chapter 208

26 **77-11a-402** , as last amended by Laws of Utah 2024, Chapter 332 , as last amended by Laws of
Utah 2024, Chapter 332

27 **Utah Code Sections affected by Coordination Clause:**

28 **77-11a-402** , as last amended by Laws of Utah 2024, Chapter 332 , as last amended by Laws of
Utah 2024, Chapter 332

29

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

31 Section 1. Section **76-10-529** is amended to read:

32 **76-10-529. Possession of firearms, other dangerous weapons, or explosives in airport secure
areas prohibited -- Punishment limitations -- Reporting requirement.**

29 (1)

. (a) As used in this section:

30 (i) "Airport authority" has the same meaning as defined in Section 72-10-102.

31 (ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section
76-10-306.

33 (iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

35 (b) Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section.

36 (2)

. (a) Within a secure area of an airport established pursuant to this section, an actor, including an actor
licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is
guilty of:

39 (i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or other
dangerous weapon;

41 (ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal negligence
possesses a firearm or other dangerous weapon; or

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- 43 (iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells an
explosive, chemical, or incendiary device.
- 45 (b) Subsection (2)(a) does not apply to:
- 46 (i) individuals exempted under Section 76-10-523; and
- 47 (ii) a member of the state or federal military forces while engaged in the performance of the member's
official duties.
- 49 (3) An airport authority, county, municipality, or other entity regulating an airport may:
- 50 (a) establish a secure area located beyond the main area where the public generally buys tickets, checks
and retrieves luggage; and
- 52 (b) use reasonable means, including mechanical, electronic, x-ray, or another device, to detect firearms,
other dangerous weapons, or explosives concealed in baggage or upon the person of an individual
attempting to enter the secure area.
- 55 (4) At least one notice shall be prominently displayed at each entrance to a secure area in which a
firearm, other dangerous weapon, or explosive is restricted.
- 57 (5)
- . (a) An actor who violates Subsection (2)(a)(ii) on a first offense may receive a written warning for the
offense and may not receive a citation or any other form of punishment.
- 60 (b) An actor who violates Subsection (2)(a)(ii) on a second or subsequent offense may receive a written
warning or a citation.
- 62 (6)
- . (a) Except as provided in Subsection (6)(d), if a law enforcement officer issues a citation to an actor for
an infraction as a result of the actor's conduct described in Subsection (2)(a)(ii), or provides an oral
or written warning for that conduct, the law enforcement officer shall:
- 66 (i) if the law enforcement officer is able to confirm that the actor may lawfully possess the firearm
or other dangerous weapon, allow the actor, at the actor's option, to:
- 69 (A) temporarily surrender custody of the firearm or other dangerous weapon into the custody of the law
enforcement agency so that the firearm or other dangerous weapon may be retrieved by the actor at
a later date; or
- 72 (B) exit the secure area of the airport with the firearm or other dangerous weapon; or
- 74 (ii) if the law enforcement officer is unable to confirm that the actor may lawfully possess the
firearm or other dangerous weapon, or the airport authority under Subsection (6)(d) prohibits

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the procedure described in Subsection (6)(a)(i), take temporary custody of the firearm or other dangerous weapon so that the firearm or other dangerous weapon may be retrieved by the actor at a later date if legally permitted to do so.

- 80 (b) If a law enforcement officer takes temporary custody of a firearm or other dangerous weapon under
Subsection (6)(a):
- 82 (i) at the time the firearm or other dangerous weapon is obtained from the actor, the law enforcement
officer, or another law enforcement officer, or an employee who works in the secure area of the
airport, shall provide the actor with written instructions on how, when, and where the actor may
retrieve the actor's firearm or other dangerous weapon; and
- 87 (ii) within three business days from the time when the law enforcement officer receives the firearm or
other dangerous weapon, the law enforcement agency shall determine whether the actor is legally
permitted to possess the firearm or other dangerous weapon, and if so, ensure that the firearm or
other dangerous weapon is available for the actor to retrieve.
- 92 (c) An unclaimed firearm or other dangerous weapon that is surrendered into the custody of a law
enforcement agency under this Subsection (6) may be disposed of pursuant to Section 77-11d-105,
disposition of unclaimed property.
- 95 (d) An airport authority may implement a policy that prohibits the law enforcement agency with
jurisdiction over the airport from utilizing the procedure described in Subsection (6)(a)(i).
- 98 (7)
- . (a) An actor's firearm that is confiscated based on a violation of Subsection (2)(a)(i) shall be returned to
the actor in accordance with Subsection [~~77-11a-402(1)(b)~~] 77-11a-402(2).
- 101 (b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection (2)(a)(i) is not
subject to forfeiture if the actor may lawfully possess the firearm.
- 103 (c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture
of a firearm.
- 105 (8) An airport authority, county, municipality, or other entity regulating an airport or with local
jurisdiction over an airport may not:
- 107 (a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local ordinance, or
another state or local law or regulation for conduct described in Subsection (2)(a)(ii);
- 110 (b) assess a civil penalty for conduct described in Subsection (2)(a)(i) or (ii); or
- 111 (c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

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112 (9) A law enforcement agency that issues a written warning, citation, or referral for prosecution under
this section shall record and report the information as required under Section 53-25-103.

120 Section 2. Section **77-2a-2** is amended to read:

121 **77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement --
Waiver of time for sentencing.**

118 (1) At any time after acceptance of a plea of guilty or no contest but before entry of judgment of
conviction and imposition of sentence, the court may, upon motion of both the prosecuting attorney
and the defendant, hold the plea in abeyance and not enter judgment of conviction against the
defendant nor impose sentence upon the defendant within the time periods contained in Rule 22(a),
Utah Rules of Criminal Procedure.

123 (2) A defendant shall be represented by counsel during negotiations for a plea in abeyance and at the
time of acknowledgment and affirmation of any plea in abeyance agreement unless the defendant
knowingly and intelligently waives the defendant's right to counsel.

126 (3) A defendant has the right to be represented by counsel at any court hearing relating to a plea in
abeyance agreement.

128 (4)

. (a) Any plea in abeyance agreement entered into between the prosecution and the defendant and
approved by the court shall, subject to Subsection (7), include a full, detailed recitation of the
requirements and conditions agreed to by the defendant and the reason for requesting the court to
hold the plea in abeyance.

132 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the agreement shall be
in writing and shall, before acceptance by the court, be executed by the prosecuting attorney, the
defendant, and the defendant's counsel in the presence of the court.

136 (5)

. (a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for a period longer than
18 months if the plea is to any class of misdemeanor or longer than three years if the plea is to any
degree of felony or to any combination of misdemeanors and felonies.

140 (b)

. (i) For a plea in abeyance agreement that the Department of Corrections supervises, the plea may not
be held in abeyance for a period longer than the initial term of probation required under the adult

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sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, if the initial term of probation is shorter than the period required under Subsection (5)(a).

145 (ii) Subsection (5)(b)(i) does not:

146 (A) apply to a plea that is held in abeyance in a drug court created under Title 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

149 (B) prohibit court supervision of a plea in abeyance agreement after the day on which the Department of Corrections supervision described in Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

152 (6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

156 (7) A plea in abeyance agreement may not:

157 (a) [-]be approved unless the defendant, before the court, and any written agreement, knowingly and intelligently waives time for sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure; or

160 (b) include as part of the requirements and conditions agreed to by the defendant that the defendant will forfeit a firearm owned by the defendant if the offense the defendant will plea to is not an offense that would make the defendant a restricted person under Section 76-10-503.

170 Section 3. Section **77-11a-402** is amended to read:

171 **77-11a-402. Disposition of seized property and contraband -- Return of seized property.**

167 (1)

. [(A)] Except as provided in Subsection [(1)(b)] (2), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:

170 [(i)] (a) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

172 [(ii)] (b) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403 if the owner:

175 [(A)] (i) is the individual who committed the offense for which the weapon was seized; or

177 [(B)] (ii) may not lawfully possess the weapon; or

178 [(iii)] (c) notify the agency with custody of the property or contraband that:

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- 179 ~~[(A)]~~ (i) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner
may lawfully possess the property; or
- 181 ~~[(B)]~~ (ii) the contraband may be disposed of or destroyed.
- 182 ~~[(b)]~~ (2)
- . (a) If [a] an individual is charged with a crime that would not make the individual a restricted person
under Section 76-10-503 if convicted and the prosecuting attorney determines that [a] any firearm
seized from [an] the individual as a result of [an] the offense [committed under Subsection
76-10-529(2)(a)(i)] allegedly committed by the individual no longer needs to be retained for court
proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the
[property] firearm shall be returned to the individual if the individual may lawfully possess the
firearm.
- 190 (b) This Subsection (2) does not prohibit a law enforcement agency from performing a background
check on an individual described in Subsection (2)(a) to determine if the individual may lawfully
possess firearms.
- 193 ~~[(2)]~~ (3) Before returning a firearm to an individual, the agency returning the firearm shall confirm,
through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and
receive firearms.
- 196 ~~[(3)]~~ (4)
- . (a) Except as provided in Subsection ~~[(3)(b)]~~ (4)(b), if the agency is unable to locate the owner of the
property or the owner is not entitled to lawfully possess the property, the agency may:
- 199 (i) apply the property to a public interest use;
- 200 (ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or
- 202 (iii) destroy the property if the property is unfit for a public interest use or for sale.
- 203 (b) If the property described in Subsection ~~[(3)(a)]~~ (4)(a) is a firearm, the agency shall dispose of the
firearm in accordance with Section 77-11a-403.
- 205 ~~[(4)]~~ (5) Before applying the property or the proceeds from the sale of the property to a public interest
use, the agency shall obtain from the legislative body of the agency's jurisdiction:
- 208 (a) permission to apply the property or the proceeds to public interest use; and
- 209 (b) the designation and approval of the public interest use of the property or the proceeds.
- 210

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~~[(5)]~~ (6) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

218 Section 4. **Effective date.**

This bill takes effect on May 7, 2025.

220 Section 5. **Coordinating H.B. 195 with H.B. 133 and H.B. 21.**

If H.B. 195, Firearm Retention Amendments, passes and becomes law, and if either or both H.B. 21, Criminal Code Recodification and Cross References, or H.B. 133, Dangerous Weapons Amendments, also pass and become law, the amendments to Section 77-11a-402 in H.B. 195 supersede the amendments to Section 77-11a-402 in H.B. 133 and H.B. 21.

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