

1 **PEACE OFFICER AMENDMENTS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Blake D. Chard**

5 AN ACT RELATING TO PUBLIC SAFETY; MODIFYING AND CLARIFYING THE
6 VARIOUS CLASSIFICATIONS OF PEACE OFFICERS AND THE REQUISITE TRAINING
7 AND CERTIFICATION; AND MAKING TECHNICAL CHANGES.

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

9 AMENDS:

10 **17-22-1.5**, as last amended by Chapters 227 and 234, Laws of Utah 1993

11 **17-22-27**, as last amended by Chapter 198, Laws of Utah 1996

12 **20A-5-605**, as last amended by Chapter 3, Laws of Utah 1996, Second Special Session

13 **23-20-1**, as last amended by Chapter 212, Laws of Utah 1992

14 **23-20-1.5**, as enacted by Chapter 33, Laws of Utah 1973

15 **26-6a-1**, as enacted by Chapter 14, Laws of Utah 1988, Second Special Session

16 **30-6-1**, as last amended by Chapter 303, Laws of Utah 1997

17 **41-3-105**, as last amended by Chapter 1 and renumbered and amended by Chapter 234, Laws
18 of Utah 1992

19 **41-6-1**, as last amended by Chapter 208, Laws of Utah 1996

20 **41-6-103**, as enacted by Chapter 33, Laws of Utah 1978

21 **41-6-114**, as last amended by Chapter 241, Laws of Utah 1979

22 **41-6-117.5**, as enacted by Chapter 242, Laws of Utah 1979

23 **41-6-153**, as enacted by Chapter 242, Laws of Utah 1979

24 **41-6-167**, as last amended by Chapter 183, Laws of Utah 1983

25 **41-6-169**, Utah Code Annotated 1953

26 **41-6-172**, Utah Code Annotated 1953

27 **41-12a-501**, as last amended by Chapter 51, Laws of Utah 1997

1 **41-22-16**, as last amended by Chapter 162, Laws of Utah 1987
2 **49-4-103**, as last amended by Chapter 31, Laws of Utah 1997
3 **49-4-203**, as last amended by Chapter 87, Laws of Utah 1997
4 **49-4a-103**, as last amended by Chapter 31, Laws of Utah 1997
5 **49-4a-203**, as last amended by Chapter 87, Laws of Utah 1997
6 **53-1-102**, as enacted by Chapter 234, Laws of Utah 1993
7 **53-1-109**, as last amended by Chapter 104, Laws of Utah 1997
8 **53-3-417**, as last amended by Chapter 7, Laws of Utah 1994
9 **53-3-702**, as renumbered and amended by Chapter 234, Laws of Utah 1993
10 **53-6-203**, as last amended by Chapter 79, Laws of Utah 1996
11 **53-6-211**, as last amended by Chapter 315, Laws of Utah 1997
12 **53-6-212**, as renumbered and amended by Chapter 234, Laws of Utah 1993
13 **53-7-105**, as renumbered and amended by Chapter 234, Laws of Utah 1993
14 **53-9-118**, as enacted by Chapter 314, Laws of Utah 1995
15 **53B-8c-102**, as enacted by Chapter 333, Laws of Utah 1997
16 **53B-8c-103**, as enacted by Chapter 333, Laws of Utah 1997
17 **56-1-21.5**, as enacted by Chapter 215, Laws of Utah 1985
18 **62A-4a-202.5**, as enacted by Chapter 318, Laws of Utah 1996
19 **63-11-17.2**, as enacted by Chapter 315, Laws of Utah 1997
20 **64-13-21**, as last amended by Chapter 100, Laws of Utah 1996
21 **64-13-21.5**, as enacted by Chapter 103, Laws of Utah 1993
22 **65A-3-3**, as last amended by Chapter 38, Laws of Utah 1993
23 **67-19-12.3**, as last amended by Chapter 213, Laws of Utah 1997
24 **76-6-601**, as last amended by Chapter 234, Laws of Utah 1993
25 **76-9-301.6**, as last amended by Chapter 7, Laws of Utah 1996, Second Special Session
26 **77-7-13**, as last amended by Chapter 245, Laws of Utah 1987
27 **77-9-3**, as enacted by Chapter 15, Laws of Utah 1980
28 **77-27-26**, as last amended by Chapter 320, Laws of Utah 1983
29 **77-39-101**, as enacted by Chapter 168, Laws of Utah 1994
30 **78-29-101**, as enacted by Chapter 107, Laws of Utah 1995

31 ENACTS:

1 **53-10-101**, Utah Code Annotated 1953

2 **53-10-111**, Utah Code Annotated 1953

3 RENUMBERS AND AMENDS:

4 **53-10-102**, (Renumbered from 77-1a-1.5, as enacted by Chapter 103, Laws of Utah 1993)

5 **53-10-103**, (Renumbered from 77-1a-1, as last amended by Chapter 315, Laws of Utah 1997)

6 **53-10-104**, (Renumbered from 77-1a-2, as last amended by Chapters 7 and 315, Laws of Utah
7 1997)

8 **53-10-105**, (Renumbered from 77-1a-4, as last amended by Chapter 315, Laws of Utah 1997)

9 **53-10-106**, (Renumbered from 77-1a-5, as last amended by Chapter 197, Laws of Utah 1991)

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

11 **53-10-108**, (Renumbered from 77-1a-8, as last amended by Chapter 82, Laws of Utah 1989)

12 **53-10-109**, (Renumbered from 77-1a-9, as enacted by Chapter 174, Laws of Utah 1985)

13 **53-10-110**, (Renumbered from 77-1a-10, as enacted by Chapter 318, Laws of Utah 1996)

14 REPEALS:

15 **76-9-302**, as last amended by Chapter 32, Laws of Utah 1974

16 **77-1a-3**, as enacted by Chapter 174, Laws of Utah 1985

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

18 Section 1. Section **17-22-1.5** is amended to read:

19 **17-22-1.5. County sheriff qualifications.**

20 (1) In addition to the general qualifications required of county officers by Title 17, Chapter
21 16, County Officers, each county sheriff must meet each of the following qualifications during his
22 term of office:

23 (a) Prior to taking office, a county sheriff must be certified as a [peace] law enforcement
24 officer according to procedures and requirements of Title 53, Chapter 6, and shall satisfactorily
25 complete annual certified training as required in Section [~~77-1a-1~~] 53-10-103.

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

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

30 Section 2. Section **17-22-27** is amended to read:

31 **17-22-27. Sheriff -- Assignment of court bailiffs -- Contract and costs.**

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

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

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

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

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

20 (b) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two
21 years, who shall be exempt from the deputy sheriff merit service commission.

22 Section 3. Section **20A-5-605** is amended to read:

23 **20A-5-605. Duties of election judges on election day.**

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

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

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

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

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

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

4 (d) display the United States flag;

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

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

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

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

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

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

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

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

17 (3) (a) If any election judge fails to appear on the morning of the election, or fails or
18 refuses to act, at least six qualified electors from the voting precinct who are present at the polling
19 place at the hour designated by law for the opening of the polls shall fill the vacancy by appointing
20 another qualified person from the voting precinct who is a member of the same political party as
21 the judge who is being replaced to act as election judge.

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

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

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

31 (5) If the election judge who received delivery of the ballots produces packages of

1 substitute ballots accompanied by a written and sworn statement of the election officer that the
2 ballots are substitute ballots because the original ballots were not received, were destroyed, or were
3 stolen, the election judges shall use those substitute ballots as the official election ballots.

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

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

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

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

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

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

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

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

23 Section 4. Section **23-20-1** is amended to read:

24 **23-20-1. Enforcement authority of conservation officers -- Seizure and disposition**
25 **of property.**

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

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

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

31 (ii) a reasonable likelihood the wildlife evidence will be lost, destroyed, or hidden before

1 a search warrant may be obtained.

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

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

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

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

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

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

12 (i) confiscated by the court;

13 (ii) conveyed to the division; and

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

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

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

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

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

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

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

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

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

31 (iii) A seized vehicle shall be released to the owner no later than 30 days after the date the

1 vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by
2 a person who is charged with committing a felony under this title.

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

5 (A) confiscated by the court;

6 (B) conveyed to the division; and

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

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

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

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

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

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

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

20 Section 5. Section **23-20-1.5** is amended to read:

21 **23-20-1.5. Powers of law enforcement section -- Employees.**

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

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

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

30 (2) The powers and duties [~~hereby~~] conferred by this section upon employees of the law
31 enforcement section of the Division of Wildlife Resources shall be supplementary to and in no way

1 a limitation on the powers and duties of other [~~peace~~] law enforcement officers in the state.

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

3 **26-6a-1. Definitions.**

4 For purposes of this chapter:

5 [~~(2)~~] (1) "Designated agent" means a person or persons designated by an agency
6 employing or utilizing emergency medical services providers as employees or volunteers to receive
7 and distribute test results in accordance with this chapter.

8 [~~(3)~~] (2) "Disability" means the event of becoming physically incapacitated from
9 performing any work for remuneration or profit.

10 [~~(1)~~] (3) "Disease" means Acquired Immunodeficiency Syndrome, Human
11 Immunodeficiency Virus infection, Hepatitis B, Hepatitis B seropositivity, and any other infectious
12 disease designated by the department.

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

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

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

23 (7) "Significant exposure" means:

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

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

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

30 Section 7. Section **30-6-1** is amended to read:

31 **30-6-1. Definitions.**

1 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

- 26 (a) the requirements of due process were met by the issuing court, including subject matter
27 and personal jurisdiction;
- 28 (b) the respondent received reasonable notice; and
- 29 (c) the respondent had an opportunity for a hearing regarding the protective order.

30 (9) "Law enforcement unit" or "law enforcement agency" means any public agency having
31 general police power and charged with making arrests in connection with enforcement of the

1 criminal statutes and ordinances of this state or any political subdivision.

2 (10) "Peace officer" means those persons specified in [~~Section 77-1a-1~~] Title 53, Chapter
3 10, Peace Officer Classification.

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

7 Section 8. Section **41-3-105** is amended to read:

8 **41-3-105. Administrator's powers and duties -- Administrator and investigators to**
9 **be law enforcement officers.**

10 (1) The administrator may make rules to carry out the purposes of this chapter and
11 Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title
12 63, Chapter 46a, Utah Administrative Rulemaking Act.

13 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
14 discharge the duties under this chapter and may designate the duties of those clerks, deputies, and
15 assistants.

16 (b) The administrator, assistant administrator, and all investigators shall be [~~peace~~] law
17 enforcement officers certified by peace officer standards and training as required by Section
18 [~~77-1a-1~~] 53-10-103.

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

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

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

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

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

29 (c) Each application for a license shall contain:

30 (i) if the applicant is an individual, the name and residence address of the applicant and
31 the trade name, if any, under which he intends to conduct business;

1 (ii) if the applicant is a partnership, the name and residence address of each partner,
2 whether limited or general, and the name under which the partnership business will be conducted;

3 (iii) if the applicant is a corporation, the name of the corporation, and the name and
4 residence address of each of its principal officers and directors;

5 (iv) a complete description of the principal place of business, including:

6 (A) the municipality, with the street and number, if any;

7 (B) if located outside of any municipality, a general description so that the location can
8 be determined; and

9 (C) any other places of business operated and maintained by the applicant in conjunction
10 with the principal place of business; and

11 (v) if the application is for a new motor vehicle dealer's license, the name of each motor
12 vehicle the applicant has been enfranchised to sell or exchange, the name and address of the
13 manufacturer or distributor who has enfranchised the applicant, and the names and addresses of
14 the individuals who will act as salespersons under authority of the license.

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

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

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

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

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

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

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

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

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

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

9 (d) investigate traffic accidents and secure testimony of witnesses or persons involved; and

10 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

11 Section 9. Section **41-6-1** is amended to read:

12 **41-6-1. Definitions.**

13 As used in this chapter:

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

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

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

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

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

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

29 (7) "Crosswalk" means:

30 (a) that part of a roadway at an intersection included within the connections of the lateral
31 lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence

1 of curbs, from the edges of the traversable roadway; and in the absence of a sidewalk on one side
2 of the roadway, that part of a roadway included within the extension of the lateral lines of the
3 existing sidewalk at right angles to the centerline; or

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

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

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

10 (10) "Electric assisted bicycle" means a moped with an electric motor with a power output
11 of not more than 1,000 watts, which is not capable of propelling the device at a speed of more than
12 20 miles per hour on level ground, and which is not capable of increasing the speed of the device
13 when human power is used to propel the device at more than 20 miles per hour.

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

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

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

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

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

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

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

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

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

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

10 (19) "Mobile home" means:

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

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

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

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

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

1 (23) "Motor-driven cycle" means every motorcycle and motor scooter, moped, electric
2 assisted bicycle, and every motorized bicycle having an engine with less than 150 cubic
3 centimeters displacement or having a motor which produces not more than five horsepower.

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

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

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

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

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

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

16 (30) "Pedestrian" means any person afoot.

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

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

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

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

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

31 (36) "Railroad train" means a locomotive propelled by any form of energy, coupled with

1 or operated without cars, and operated upon rails.

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

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

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

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

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

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

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

27 (44) "Solid rubber tire" means every tire of rubber or other resilient material which does
28 not depend upon compressed air for the support of the load.

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

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

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

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

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

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

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

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

17 (53) "Urban district" means the territory contiguous to and including any street, in which
18 structures devoted to business, industry, or dwelling houses are situated at intervals of less than
19 100 feet, for a distance of a quarter of a mile or more.

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

23 Section 10. Section **41-6-103** is amended to read:

24 **41-6-103. Standing or parking vehicles -- Restrictions and exceptions.**

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

27 (1) stop, stand, or park a vehicle:

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

29 (b) on a sidewalk;

30 (c) within an intersection;

31 (d) on a crosswalk;

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

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

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

8 (h) on any railroad tracks;

9 (i) on any controlled-access highway;

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

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

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

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

15 (b) within 15 feet of a fire hydrant;

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

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

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

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

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

25 (a) within 50 feet of the nearest rail of a railroad crossing; or

26 (b) at any place where official traffic-control devices prohibit parking.

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

29 Section 11. Section **41-6-114** is amended to read:

30 **41-6-114. Destructive or injurious materials on highways, parks, recreation areas,**
31 **waterways, or other public or private lands -- Throwing lighted material from moving**

1 **vehicle -- Enforcement officers -- Litter receptacles required.**

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

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

12 (a) immediately remove the [same] material or cause it to be removed; and

13 (b) deposit the material in a receptacle designed to receive [such] the material.

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

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

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

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

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

29 [(h)] (8) (a) Officers of the Division of Wildlife Resources and Parks and Recreation,
30 [~~police~~] peace officers of incorporated cities and towns, sheriffs and their deputies, deputy state
31 fire wardens, state capitol security officers, and other officers of the state [of Utah], within their

1 jurisdiction shall enforce the provisions of this section.

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

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

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

13 Section 12. Section **41-6-117.5** is amended to read:

14 **41-6-117.5. Permit to operate vehicle in violation of equipment regulations.**

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

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

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

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

23 Section 13. Section **41-6-153** is amended to read:

24 **41-6-153. Warning signal around disabled vehicle -- Time and place.**

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

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

30 (i) parked lawfully in an urban district~~;~~~~or~~;

31 (ii) stopped lawfully to receive or discharge passengers~~;~~~~or~~;

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

3 (iv) while the devices specified in Subsections [(b)] (2) through [(h)] (8) are in place.

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

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

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

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

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

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

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

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

30 ~~[(d)]~~ (b) [~~Whenever any vehicle of a type referred to in this section is disabled, or stopped~~
31 ~~for more than 10 minutes,~~] upon any roadway of a divided highway during the time lighted lamps

1 are required, the appropriate warning devices prescribed in Subsections ~~[(b)]~~ (2) and ~~[(e)]~~ (4) shall
2 be placed as follows:

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

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

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

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

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

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

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

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

26 ~~[(f)]~~ (5) The warning devices described in Subsections ~~[(b)]~~ (2) through ~~[(e)]~~ (4) need not
27 be displayed where there is sufficient light to reveal persons and vehicles within a distance of
28 1,000 feet.

29 ~~[(g)]~~ Whenever any vehicle described in this section is disabled, or stopped for more than
30 ~~10~~ minutes, upon a roadway outside of an urban district or upon the roadway of a divided highway
31 at any time when lighted lamps are not required by Section 41-6-118, the driver of the vehicle shall

1 display two red flags as follows:]

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

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

8 [(h) ~~When~~] (6) At any time and place that any vehicle described in this section is stopped
9 entirely off the roadway and on an adjacent shoulder [~~at any time and place hereinbefore~~
10 mentioned], the warning devices shall be placed, as nearly as practicable, on the shoulder near the
11 edge of the roadway.

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

15 Section 14. Section **41-6-167** is amended to read:

16 **41-6-167. Notice to appear in court -- Contents -- Promise to comply -- Signing --**
17 **Release from custody -- Official misconduct.**

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

21 (a) the name and address of [~~such~~] the person[-];

22 (b) the number, if any, of [~~his~~] the person's operator's license[-];

23 (c) the registration number of [~~his~~] the person's vehicle[-];

24 (d) the offense charged[-]; and

25 (e) the time and place [~~when and where such~~] the person shall appear in court.

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

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

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

5 **(b)** The arresting officer shall immediately:

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

8 (ii) release the person arrested from custody.

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

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

11 (b) subject to removal from office.

12 Section 15. Section **41-6-169** is amended to read:

13 **41-6-169. Arrests without warrants.**

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

18 Section 16. Section **41-6-172** is amended to read:

19 **41-6-172. Improper disposition or cancellation of notice to appear or traffic citation**
 20 **-- Official misconduct -- Misdemeanor.**

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

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

26 Section 17. Section **41-12a-501** is amended to read:

27 **41-12a-501. Post-accident security.**

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

1 damage caused by the accident.

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

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

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

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

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

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

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

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

22 (d) The operator was in compliance with the operator's security requirement under Section
23 41-12a-301 at the time of the accident.

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

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

1 for claimants and the policy or bond is issued by an insurer licensed in the state.

2 (g) The operator at the time of the accident was operating a motor vehicle owned or leased
3 by the operator's employer and driven with the employer's permission.

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

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

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

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

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

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

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

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

23 Section 18. Section **41-22-16** is amended to read:

24 **41-22-16. Authorized enforcement officers -- Arrest provisions.**

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

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

31 Section 19. Section **49-4-103** is amended to read:

1 **49-4-103. Definitions.**

2 As used in this chapter:

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

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

9 (c) "Compensation" does not include:

10 (i) overtime;

11 (ii) sick pay incentives;

12 (iii) retirement pay incentives;

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

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

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

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

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

22 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
23 compensation in any one of the years used may not exceed the previous year's salary by more than
24 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar
25 during the previous year, as measured by the Consumer Price Index prepared by the United States
26 Bureau of Labor Statistics.

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

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

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

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

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

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

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

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

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

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

12 (iii) special function officers in accordance with Subsection 49-4-203(5) and Section
13 [~~77-1a-4~~] 53-10-105.

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

16 (7) "Years of service" or "service years" means the number of periods, each to consist of
17 12 full months as determined by the board, whether consecutive or not, during which an employee
18 performed services for an employer or employers, including time the employee was absent in the
19 service of the United States government on military duty.

20 Section 20. Section **49-4-203** is amended to read:

21 **49-4-203. Eligibility for membership in the system.**

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

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

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

1 employment.

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

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

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

9 (ii) recommending contribution rates.

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

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

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

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

22 (C) Except as provided under Subsection (3)(b)(iii)(D), a decision of the Peace Officer
23 Standards and Training Council granting an individual or a position coverage under the Public
24 Safety Retirement System may only be applied prospectively from the date of that decision.

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

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

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

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

4 (ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter
5 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

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

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

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

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

18 (ii) is required to complete training as provided in Subsection [~~77-1a-1(3), 77-1a-2(3), or~~
19 ~~77-1a-4(3)~~] 53-10-103(4), 53-10-104(3), or 53-10-105(3).

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

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

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

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

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

31 (8) A final order of the Peace Officer Standards and Training Council regarding a dispute

1 is final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures Act.

2 Section 21. Section **49-4a-103** is amended to read:

3 **49-4a-103. Definitions.**

4 As used in this chapter:

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

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

11 (c) "Compensation" does not include:

12 (i) overtime;

13 (ii) sick pay incentives;

14 (iii) retirement pay incentives;

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

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

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

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

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

24 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
25 compensation in any one of the years used may not exceed the previous year's salary by more than
26 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar
27 during the previous year, as measured by the Consumer Price Index prepared by the United States
28 Bureau of Labor Statistics.

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

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

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

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

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

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

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

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

8 (c) special function officers in accordance with Subsection 49-4a-203(7) and Section
9 [~~77-1a-4~~] 53-10-105.

10 (6) "Years of service" or "service years" means the number of periods, each to consist of
11 12 full months as determined by the board, whether consecutive or not, during which an employee
12 performed services for an employer or employers, including time the employee was absent in the
13 service of the United States government on military duty.

14 Section 22. Section **49-4a-203** is amended to read:

15 **49-4a-203. Eligibility for membership in the system.**

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

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

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

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

30 (c) Any person in full-time employment with the political subdivision prior to that election
31 to participate in this system may either become a member of the noncontributory retirement system

1 or remain a member of the Public Safety Retirement System established under Title 49, Chapter
2 4, by following the procedures established by the board pursuant to this chapter.

3 (4) In cities, counties, or other employing units of government that have public safety and
4 fire fighter personnel where cross-training and duty is required, the employing unit may enroll
5 those dual purpose personnel in the retirement system in which the greatest amount of duty time
6 is contemplated and actually worked in accordance with Subsection (3). The personnel shall be
7 full-time public safety or fire fighter employees of the employing unit. New public safety
8 employing units after July 1, 1989, are covered under this chapter.

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

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

11 (ii) recommending contribution rates.

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

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

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

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

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

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

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

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

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

6 (ii) The Peace Officer Standards and Training Council shall comply with Title 63, Chapter
7 46b, Administrative Procedures Act, in conducting adjudicative proceedings.

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

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

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

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

20 (ii) is required to complete training as provided in Subsection [~~77-1a-1(3), 77-1a-2(3), or~~
21 ~~77-1a-4(3)] Section 53-10-103, 53-10-104, or 53-10-105.~~

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

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

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

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

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

1 Subsection (8) in making its recommendation.

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

4 Section 23. Section **53-1-102** is amended to read:

5 **53-1-102. Definitions.**

6 (1) As used in this title:

7 (a) "Commissioner" means the commissioner of public safety appointed under Section
8 53-1-107.

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

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

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

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

18 (f) "Peace officer" [~~has the same meaning as provided in Section 77-1a-1]~~ means any
19 officer certified in accordance with Title 53, Chapter 10, Peace Officer Classification.

20 (g) "State institution of higher education" has the same meaning as provided in Section
21 53B-3-102.

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

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

27 Section 24. Section **53-1-109** is amended to read:

28 **53-1-109. Security for capitol complex -- Traffic and parking rules enforcement for**
29 **division -- Security personnel as law enforcement officers.**

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

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

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

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

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

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

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

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

21 Section 25. Section **53-3-417** is amended to read:

22 **53-3-417. Measurable alcohol amount consumed -- Penalty -- Refusal to take test for**
23 **alcohol.**

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

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

28 (a) violates Subsection (1); or

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

31 Section 26. Section **53-3-702** is amended to read:

1 **53-3-702. Definitions.**

2 As used in this part:

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

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

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

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

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

13 (6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to
14 the motorist.

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

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

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

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

22 Section 27. Section **53-6-203** is amended to read:

23 **53-6-203. Applicants for admission to training programs or for certification**
24 **examination -- Requirements.**

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

28 (a) be a United States citizen;

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

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

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

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

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

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

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

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

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

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

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

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

30 Section 28. Section **53-6-211** is amended to read:

31 **53-6-211. Revocation, suspension, or refusal of certification -- Hearings -- Grounds**

1 -- Notice to employer -- Reporting.

2 (1) (a) The director may, upon the concurrence of the majority of the council, revoke,
3 refuse, or suspend certification of a peace officer for cause.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 Section 29. Section **53-6-212** is amended to read:

22 **53-6-212. Responsibility for training -- Certification.**

23 (1) The division is not responsible for providing basic or in-service training for peace
24 officers defined and designated in Sections [77-1a-2] 53-10-103 through [77-1a-5] 53-10-105
25 except for approval of the instructors and content of training where required by this chapter, Title
26 [77] 53, Chapter [1a] 10, Peace Officer [Designation] Classification, or division rules.

27 (2) Where this chapter or Title [77] 53, Chapter [1a] 10, Peace Officer [Designation]
28 Classification, requires an agency head to certify that a member has completed required training,
29 the division shall rely on the certification, as provided, to be accurate.

30 Section 30. Section **53-7-105** is amended to read:

31 **53-7-105. State fire marshal, deputies, and investigators -- Status of law enforcement**

1 **officers -- Inclusion in Public Safety Retirement -- Training.**

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

5 (2) Inclusion under Title 49, Chapter 4, Public Safety Retirement Act, or Title 49, Chapter
6 4a, Public Safety Noncontributory Retirement Act, is not authorized by Subsection (1) except as
7 provided in those chapters.

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

11 Section 31. Section **53-9-118** is amended to read:

12 **53-9-118. Grounds for disciplinary action -- Types of action.**

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

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

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

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

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

27 (e) knowingly violating, advising, encouraging, or assisting the violation of any statute,
28 court order, or injunction in the course of a business regulated under this chapter;

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

30 (g) conviction of a felony;

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

- 1 weapon;
- 2 (i) conviction of any act involving moral turpitude;
- 3 (j) conviction of any act of personal violence or force against any person or conviction of
4 threatening to commit any act of personal violence or force against any person;
- 5 (k) soliciting business for an attorney in return for compensation;
- 6 (l) conviction of any act constituting dishonesty or fraud;
- 7 (m) being placed on probation, parole, or named in an outstanding arrest warrant;
- 8 (n) committing, or permitting any associate, registrant, or employee to commit any act
9 during the period between the expiration of a license or registration for failure to renew within the
10 time fixed by this chapter, and the reinstatement of the license or registration, that would be cause
11 for the suspension or revocation of the license or registration or grounds for denial of the
12 application for the license or registration;
- 13 (o) willfully neglecting to render to a client services or a report as agreed between the
14 parties and for which compensation has been paid or tendered in accordance with the agreement
15 of the parties. However, if the investigator chooses to withdraw from the case and returns the
16 funds for work not yet done, no violation of this section exists;
- 17 (p) the unauthorized release of information acquired on behalf of a client by a licensee,
18 associate, or registrant as a result of activities regulated under this chapter;
- 19 (q) failing or refusing to cooperate with or refusing access to an authorized representative
20 of the department engaged in an official investigation pursuant to this chapter;
- 21 (r) employing or contracting with any unregistered or improperly registered person or
22 unlicensed or improperly licensed person or agency to conduct activities regulated under this
23 chapter if the licensure or registration status was known or could have been ascertained by
24 reasonable inquiry;
- 25 (s) permitting, authorizing, aiding, or in any way assisting a registered employee to
26 conduct services as described in this chapter on an independent contractor basis and not under the
27 authority of the licensed agency;
- 28 (t) failure to maintain in full force and effect workers' compensation insurance, if
29 applicable;
- 30 (u) conducting private investigation services regulated by this chapter on a revoked or
31 suspended license or registration;

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

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

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

6 (y) committing any act of unprofessional conduct.

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

8 (a) dismiss the case;

9 (b) take emergency action;

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

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

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

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

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

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

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

29 (a) dismiss the complaint if the board believes it is without merit;

30 (b) fix a period and terms of probation best adapted to educate the licensee, registrant,
31 apprentice, or employee;

1 (c) place the license or registration on suspension for a period of not more than 12 months;

2 (d) revoke the license or registration; or

3 (e) impose a civil fine not to exceed \$500.

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

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

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

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

16 Section 32. Section **53-10-101** is enacted to read:

17 **CHAPTER 10. PEACE OFFICER CLASSIFICATION**

18 **53-10-101. Definitions.**

19 As used in this chapter:

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

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

25 (3) "Council" means the Peace Officer Standards and Training Council created in Section
26 53-6-106.

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

29 (5) "Division" means the Peace Officer Standards and Training Division created in Section
30 53-6-103.

31 (6) "Local law enforcement agency" means the law enforcement agency of any political

1 subdivision of the state.

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

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

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

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

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

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

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

21 Section 33. Section **53-10-102**, which is renumbered from Section 77-1a-1.5 is
22 renumbered and amended to read:

23 **[77-1a-1.5]. 53-10-102. Peace officer classifications.**

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

26 (1) [~~reserve and auxiliary~~] law enforcement officers;

27 (2) [~~special function~~] correctional officers;

28 (3) [~~federal police~~] special function officers; and

29 (4) [~~correctional~~] federal officers.

30 Section 34. Section **53-10-103**, which is renumbered from Section 77-1a-1 is renumbered
31 and amended to read:

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

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

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

8 (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county,
9 city, or town;

10 (ii) the commissioner of public safety and any member of the Department of Public Safety
11 certified as a peace officer;

12 (iii) all persons specified in Sections 23-20-1.5 and 63-11-17.2;

13 (iv) any police officer employed by any college or university;

14 (v) investigators for the Motor Vehicle Enforcement Division;

15 (vi) special agents or investigators for the attorney general, district attorneys, and county
16 attorneys;

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

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

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

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

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

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

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

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

7 (b) The authority of ~~[peace]~~ law enforcement officers employed by the Department of
8 Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

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

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

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

17 Section 35. Section **53-10-104**, which is renumbered from Section 77-1a-2 is renumbered
18 and amended to read:

19 ~~[77-1a-2].~~ **53-10-104. Correctional officer.**

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

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

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

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

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

1 (iv) employees of the Board of Pardons and Parole serving on or before September 1,
2 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and
3 provide security to the Board of Pardons and Parole, and who are designated by the Board of
4 Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace
5 Officer Standards and Training Division.

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

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

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

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

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

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

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

27 (b) The in-service training shall:

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

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

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

1 (5) The local law enforcement agencies may establish correctional officer basic, advanced,
 2 or in-service training programs as approved by the director of the division with the advice and
 3 consent of the council.

4 Section 36. Section **53-10-105**, which is renumbered from Section 77-1a-4 is renumbered
 5 and amended to read:

6 ~~[77-1a-4].~~ **53-10-105. Special function officer.**

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

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

11 ~~(i)~~ (i) state military police~~[-];~~;

12 ~~(ii)~~ (ii) constables~~[-];~~;

13 ~~(iii)~~ (iii) port-of-entry agents as defined in Section 27-12-2~~[-];~~;

14 ~~(iv)~~ (iv) authorized employees or agents of the Department of Transportation assigned to
 15 administer and enforce the provisions of Title 27, Chapter 17, Motor Carrier Safety Act~~[-];~~;

16 ~~(v)~~ (v) school district security officers~~[-];~~;

17 ~~(vi)~~ (vi) Utah State Hospital security officers designated pursuant to Section 62A-12-203~~[-];~~;

18 ~~(vii)~~ (vii) Utah State Developmental Center security officers designated pursuant to Subsection
 19 62A-5-206(9)~~[-];~~;

20 ~~(viii)~~ (viii) fire arson investigators for any political subdivision of the state~~[-]~~; ~~airport security~~
 21 ~~officers of any airport owned or operated by the state or any of its political subdivisions, railroad~~
 22 ~~special agents deputized by a county sheriff under Section 17-30-2, and all other persons~~
 23 ~~designated by statute as having peace officer authority.];~~

24 ~~[(c)]~~ (ix) ordinance enforcement officers employed by municipalities or counties may be
 25 special function officers~~[-];~~;

26 ~~[(d)]~~ (x) employees of the Department of Natural Resources who have been designated to
 27 conduct supplemental enforcement functions as a collateral duty shall be special function
 28 officers~~[-];~~;

29 ~~(xi)~~ (xi) railroad special agents deputized by a county sheriff under Section 17-30-2, or
 30 appointed pursuant to Section 56-1-21.5; and

31 ~~(xii)~~ (xii) all other persons designated by statute as having special function officer authority or

1 limited peace officer authority.

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

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

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

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

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

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

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

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

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

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

30 Section 37. Section **53-10-106**, which is renumbered from Section 77-1a-5 is renumbered
31 and amended to read:

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

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

3 (i) a special [agents] agent of the Federal Bureau of Investigation;

4 (ii) a special [agents] agent of the United States Secret Service;

5 (iii) a special [agents] agent of the United States Customs Service, excluding [customs
6 inspectors] a custom inspector;

7 (iv) a special [agents] agent of the Bureau of Alcohol, Tobacco, and Firearms;

8 (v) a special [agents] agent of the Federal Drug Enforcement Agency; and

9 (vi) a United States [marshals] marshal, deputy [marshals] marshal, and special deputy
10 United States [marshals] marshal.

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

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

15 (i) are persons employed full-time by the United States government as federally
16 recognized law enforcement officers primarily responsible for the investigation and enforcement
17 of the federal laws;

18 (ii) have successfully completed formal law enforcement training offered by an agency of
19 the federal government consisting of not less than 400 hours; and

20 (iii) maintain in-service training in accordance with the standards [of the employing
21 federal agency] set forth in Section 53-10-103.

22 (2) ~~[Federal peace officers have statewide peace officer authority relating to felony~~
23 ~~offenses under the laws of this state.]~~ Except as otherwise provided under Title 77, Chapter 9,
24 Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only
25 if:

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

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

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

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

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

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

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

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

13 Section 38. Section **53-10-107**, which is renumbered from Section 77-1a-6 is renumbered
14 and amended to read:

15 **[77-1a-6]. 53-10-107. Basic training requirements for position -- Peace officers**
16 **temporarily in the state.**

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

21 (b) Any person hired, appointed, or elected to any position designated in this chapter,
22 except federal officer, shall satisfactorily complete the required basic training required of that
23 position before the person is authorized to exercise peace officer powers under this chapter.

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

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

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

31 Section 39. Section **53-10-108**, which is renumbered from Section 77-1a-8 is renumbered

1 and amended to read:

2 **[77-1a-8]. 53-10-108. Retirement.**

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

7 Section 40. Section **53-10-109**, which is renumbered from Section 77-1a-9 is renumbered
8 and amended to read:

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

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

13 Section 41. Section **53-10-110**, which is renumbered from Section 77-1a-10 is renumbered
14 and amended to read:

15 **[77-1a-10]. 53-10-110. Duties to investigate specified instances of abuse or neglect.**

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

20 Section 42. Section **53-10-111** is enacted to read:

21 **53-10-111. Peace officers serving in a reserve capacity.**

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

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

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

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

30 (2) While serving as a nonpaid volunteer in a reserve capacity, or working part-time for
31 fewer hours than that which would qualify the officer as an "employee" under state or federal law,

1 a peace officer is entitled to benefits in accordance with Title 67, Chapter 20, Volunteer
2 Government Workers Act.

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

6 Section 43. Section **53B-8c-102** is amended to read:

7 **53B-8c-102. Definitions.**

8 As used in this chapter:

9 (1) "Child" means an individual who:

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

11 and

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

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

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

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

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

22 (6) "State institution of higher education" means those institutions designated in Section
23 53B-1-102.

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

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

29 (9) (a) "Utah firefighter" or "firefighter" means a member, including volunteer members
30 and members paid on call, of a fire department or other organization that provides fire suppression
31 and other fire-related services, of a political subdivision who is responsible for or is in a capacity

1 that includes responsibility for the extinguishment of fires. [It]

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

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

8 Section 44. Section **53B-8c-103** is amended to read:

9 **53B-8c-103. Tuition waivers for surviving spouses and children of police officers and**
10 **firefighters killed in the line of duty -- Qualifications -- Limitations.**

11 (1) Beginning in the 1997-98 academic year, and subject to the limitations in Subsections
12 (2), (3), and (4) of this section, a state institution of higher education shall waive tuition for each
13 child and surviving spouse of a Utah [police] peace officer or Utah firefighter who has been killed
14 or is killed in the line of duty if the individual meets the following requirements:

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

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

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

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

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

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

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

27 (e) is certified by the financial aid officer at the higher education institution as needing the
28 tuition waiver in order to meet recognized educational expenses, with the understanding that if the
29 applicant's family income, excluding any income from death benefits attributable to the [police]
30 peace officer's or firefighter's death, is below 400% of the poverty level under federal poverty
31 guidelines, income from any death benefits accruing to the applicant as a result of the death may

1 not be counted as family income in determining financial need under this Subsection (1)(e);

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

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

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

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

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

18 Section 45. Section **56-1-21.5** is amended to read:

19 **56-1-21.5. Railroad special agents.**

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

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

25 [(b)] (c) The [peace] special function officer authority may be exercised only:

26 (i) in the protection of passengers and employees on or about railroad premises and in the
27 protection of property belonging to passengers, or belonging to or under the control of the railroad
28 employing the special agents[;]; and

29 (ii) in preventing[;] and making arrest for a violation of law upon the premises or in
30 connection with the property.

31 (2) (a) A person appointed by a railroad company to act as a railroad special agent shall,

1 prior to appointment, meet the [minimum] qualifications established for [peace] special function
2 officers, pursuant to [~~Title 77, Chapter 1a~~] Section 53-10-105, or as otherwise [may be] provided
3 by law.

4 (b) (i) Before the appointee performs any duties as a special agent, the railroad company
5 shall file the name of the appointee with the commissioner of the Department of Public Safety.

6 (ii) If the appointee meets [minimum] qualifications for a [peace] special function officer,
7 the commissioner of the Department of Public Safety shall issue to the special agent a certificate
8 of authority to act as a peace officer, to continue in effect during his employment by the railroad
9 unless revoked by the commissioner for cause.

10 (3) (a) A railroad company appointing a special agent is responsible for any liability
11 arising from the acts or omissions of the special agent within the scope of railroad employment,
12 but is entitled to any defense to liability that may be available to other peace officers.

13 (b) Neither the state nor any of its political subdivisions is liable for any act or omission
14 of a railroad special agent.

15 Section 46. Section **62A-4a-202.5** is amended to read:

16 **62A-4a-202.5. Law enforcement investigation of alleged abuse in foster care.**

17 A [peace] law enforcement officer, as defined in Section [~~77-1a-1~~] 53-10-103, shall
18 investigate any report or allegation of abuse or neglect of a child that allegedly occurs while the
19 child is living in substitute care in the protective custody, temporary custody, or custody of the
20 division.

21 Section 47. Section **63-11-17.2** is amended to read:

22 **63-11-17.2. Peace officer authority of park rangers.**

23 (1) The Division of Parks and Recreation has the duty to protect state parks and park
24 property from misuse or damage and to preserve the peace within state parks.

25 (2) Employees of the Division of Parks and Recreation who are POST certified peace
26 officers and who are designated as park rangers by the division director, are [peace] law
27 enforcement officers under Section [~~77-1a-1~~] 53-10-103, and have all the powers of [peace] law
28 enforcement officers in the state, with the exception of the power to serve civil process.

29 (3) The Division of Parks and Recreation has the authority to deputize persons who are
30 peace officers or special function officers to assist park rangers on a seasonal temporary basis.

31 Section 48. Section **64-13-21** is amended to read:

1 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
2 **-- POST certified parole or probation officers and peace officers -- Duties.**

3 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced
4 offenders placed in the community on probation by the courts, on parole by the Board of Pardons
5 and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the
6 Supervision of Parolees and Probationers.

7 (b) Standards for the supervision of offenders shall be established by the department in
8 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, giving priority,
9 based on available resources, to felony offenders.

10 (2) Employees of the department who are POST certified as law enforcement officers or
11 correctional officers and who are designated as parole and probation officers by the executive
12 director [~~are peace officers and~~] have the following duties:

13 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance with
14 the conditions of the parole or probation agreement;

15 (b) investigating or apprehending any offender who has escaped from the custody of the
16 department or absconded from supervision;

17 (c) providing investigative services for the courts, the department, or the Board of Pardons
18 and Parole; or

19 (d) supervising any offender during transportation.

20 (3) (a) A monthly supervision fee of \$30 shall be collected from each offender on
21 probation or parole. The fee may be suspended or waived by the department upon a showing by
22 the offender that imposition would create a substantial hardship or if the offender owes restitution
23 to a victim.

24 (b) The department shall make rules in accordance with Title 63, Chapter 46a, Utah
25 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision
26 fee and the circumstances under which an offender may request a hearing. In determining whether
27 the imposition of the fee would constitute a substantial hardship, the department shall consider the
28 financial resources of the offender and the burden that the fee would impose, with regard to the
29 offender's other obligations.

30 Section 49. Section **64-13-21.5** is amended to read:

31 **64-13-21.5. Powers of correctional officers and POST certified correctional**

1 **enforcement or investigation officers.**

2 (1) Employees of the department who are designated by the executive director as
3 correctional officers may exercise the powers and authority of a peace officer only when needed
4 to properly carry out the following functions:

5 (a) performing the officer's duties within the boundaries of a correctional facility;

6 (b) supervising an offender during transportation;

7 (c) when in fresh pursuit of an offender who has escaped from the custody of the
8 department; or

9 (d) when requested to assist a local, state, or federal law enforcement agency.

10 (2) Employees of the department who are POST certified as law enforcement officers or
11 correctional officers and who are designated as correctional enforcement or investigation officers
12 [~~are peace officers and may~~] have the following duties, as specified by the executive director:

13 (a) providing investigative services for the department;

14 (b) conducting criminal investigations and operations in cooperation with state, local, and
15 federal law enforcement agencies; and

16 (c) providing security and enforcement for the department.

17 Section 50. Section **65A-3-3** is amended to read:

18 **65A-3-3. Enforcement of laws on state lands -- County attorney or district attorney**
19 **to prosecute.**

20 (1) It is the duty of the division, county sheriffs, their deputies, [~~police~~] peace officers, and
21 other law enforcement officers within their jurisdiction to enforce the provisions of this chapter
22 and to investigate and gather evidence that may indicate a violation under this chapter.

23 (2) The county attorney or district attorney as appropriate under Sections 17-18-1,
24 17-18-1.5, and 17-18-1.7 shall prosecute any criminal violations of this chapter and shall initiate
25 a civil action to recover suppression costs incurred by the county or state for suppression of fire
26 on private land.

27 Section 51. Section **67-19-12.3** is amended to read:

28 **67-19-12.3. Law enforcement officer and correctional officer pay plans.**

29 The pay plans for [~~peace~~] law enforcement officers, as defined under Section [~~77-1a-1~~]
30 53-10-103, and correctional officers, as defined under Section [~~77-1a-2~~] 53-10-104, employed by
31 the state shall comply with Section 67-19-12, except that the market comparability of state salary

1 ranges for [peace] law enforcement officers and correctional officers shall be based on a total
2 compensation survey of salary ranges and benefits of the three largest law enforcement agencies
3 of any political subdivision of the state.

4 Section 52. Section **76-6-601** is amended to read:

5 **76-6-601. Definitions.**

6 As used in this chapter:

7 (1) "Merchandise" means any personal property displayed, held or offered for sale by a
8 merchant.

9 (2) "Merchant" means an owner or operator of any retail mercantile establishment where
10 merchandise is displayed, held or offered for sale and includes the merchant's employees, servants
11 or agents.

12 (3) "Minor" means any unmarried person under 18 years of age.

13 (4) "Peace officer" has the same meaning as provided in [~~Section 77-1a-1~~] Title 53,
14 Chapter 10, Peace Officer Classification.

15 (5) "Premises of a retail mercantile establishment" includes, but is not limited to, the retail
16 mercantile establishment; any common use areas in shopping centers and all parking lots or areas
17 set aside for the benefit of those patrons of the retail mercantile establishment.

18 (6) "Retail mercantile establishment" means any place where merchandise is displayed,
19 held, or offered for sale to the public.

20 (7) "Retail value" means the merchant's stated or advertised price of the merchandise.

21 (8) "Shopping cart" means those push carts of the types which are commonly provided by
22 grocery stores, drug stores, or other mercantile establishments or markets for the use of the public
23 in transporting commodities in stores and markets from the store to a place outside the store.

24 (9) "Under-ring" means to cause the cash register or other sales recording device to reflect
25 less than the retail value of the merchandise.

26 Section 53. Section **76-9-301.6** is amended to read:

27 **76-9-301.6. Dog fighting exhibition -- Authority to arrest and take possession of dogs**
28 **and property.**

29 (1) A [~~sheriff, constable, police officer,~~] peace officer[~~, or deputy sheriff~~ designated under
30 Section 76-9-302] as defined in Title 53, Chapter 10, Peace Officer Classification, may enter any
31 place, building, or tenement where an exhibition of dog fighting is occurring, or where

1 preparations are being made for such an exhibition, and, without a warrant, arrest all persons
2 present.

3 (2) (a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who
4 makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia,
5 implements, or other property or things used or employed, or to be employed, in an exhibition of
6 dog fighting prohibited by Subsection 76-9-301(1)(f) or Section 76-9-301.1.

7 (b) The officer, at the time of [~~that~~] the taking of property pursuant to Subsection (2)(a),
8 shall state his name and provide other identifying information to the person in charge of the dogs
9 or property taken.

10 (3) (a) After taking possession of dogs, paraphernalia, implements, or other property or
11 things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before
12 whom a complaint has been made against any person arrested under this section. [~~That~~]

13 (b) The affidavit shall include:

14 (a) the name of the person charged in the complaint;

15 (b) a description of all property taken;

16 (c) the time and place of the taking of the property;

17 (d) the name of the person from whom the property was taken;

18 (e) the name of the person who claims to own the property, if known; and

19 (f) a statement that the officer has reason to believe and believes that the property taken
20 was used or employed, or was to be used or employed, in violation of Section 76-9-301 or
21 76-9-301.1, and the grounds for the belief.

22 (4) (a) The officer shall deliver the confiscated property to the judge or magistrate who
23 shall, by order, place the property in the custody of the officer or any other person designated in
24 the order, and that person shall keep the property until conviction or final discharge of the person
25 against whom the complaint was made.

26 (b) The person [~~so~~] designated in Subsection (4)(a) shall assume immediate custody of
27 [~~that~~] the property, and retain the property until further order of the court.

28 (c) Upon conviction of the person charged, all confiscated property shall be forfeited and
29 destroyed or otherwise disposed of, as the court may order.

30 (d) If the person charged is acquitted or discharged without conviction, the court shall, on
31 demand, order the property to be returned to its owner.

1 Section 54. Section **77-7-13** is amended to read:

2 **77-7-13. Arrest without warrant by peace officer -- Reasonable grounds, what**
3 **constitutes -- Exemption from civil or criminal liability.**

4 (1) A peace officer may arrest, without warrant, any person [~~he~~] the officer has reasonable
5 ground to believe has committed a theft under Title 76, Chapter 6, Part 8, Library Theft, or of
6 goods held or displayed for sale.

7 (2) A charge of theft made to a peace officer under Part 8, Library Theft, by an employee
8 of a library, or by a merchant, merchant's employee, servant, or agent constitutes a reasonable
9 ground for arrest, and the [~~police~~] peace officer is relieved from any civil or criminal liability.

10 Section 55. Section **77-9-3** is amended to read:

11 **77-9-3. Authority of peace officer of this state beyond normal jurisdiction.**

12 (1) Any peace officer [~~duty~~] authorized by any governmental entity of this state may
13 exercise a peace officer's authority beyond the limits of such officer's normal jurisdiction as
14 follows:

15 (a) when in fresh pursuit of an offender for the purpose of arresting and holding that
16 person in custody or returning the suspect to the jurisdiction where the offense was committed;

17 (b) when a public offense is committed in such officer's presence;

18 (c) when participating in an investigation of criminal activity which originated in [~~such~~]
19 the officer's normal jurisdiction in cooperation with the local authority; or

20 (d) when called to assist peace officers of another jurisdiction.

21 (2) (a) Any peace officer, prior to taking [~~such~~] any action authorized [~~action~~] by
22 Subsection (1), shall notify and receive approval of the local law enforcement authority, or if
23 [~~such~~] the prior contact is not reasonably possible, notify the local law enforcement authority as
24 soon as reasonably possible.

25 (b) Unless specifically requested to aid a [~~police~~] peace officer of another jurisdiction or
26 otherwise as provided for by law, no legal responsibility for a [~~police~~] peace officer's action
27 outside his normal jurisdiction [~~and~~], except as provided [~~herein~~] in this section, shall attach to the
28 local law enforcement authority.

29 Section 56. Section **77-27-26** is amended to read:

30 **77-27-26. Deputization of agents to effect return of parole and probation violators.**

31 (1) (a) The official administrator of the interstate compact for the supervision of parolees

1 and probationers is authorized and empowered to deputize any person to act as an officer and agent
2 of this state in [effecting] carrying out the return of any person who has violated the terms and
3 conditions of parole or probation as granted by this state.

4 (b) In any matter relating to the return of [such] a [person] violin described in Subsection
5 (1)(a), any deputized agent [so-deputized] shall have all the powers of a [police] peace officer of
6 this state.

7 (2) Any deputization of any person pursuant to this [act] section shall be in writing and
8 [any person authorized to act as an agent of this state pursuant to this act] the deputized agent shall:

9 (a) carry formal evidence of his deputization; and [shall]

10 (b) produce the [same] evidence of deputization upon demand.

11 (3) The official administrator of the interstate compact is authorized, subject to the
12 approval of the governor, to enter into contracts with similar officials of any other state or states
13 for the purpose of sharing an equitable portion of the cost of effecting the return of any person who
14 has violated the terms and conditions of parole or probation as granted by this state.

15 Section 57. Section **77-39-101** is amended to read:

16 **77-39-101. Investigation of sales of alcohol and tobacco to under age persons.**

17 (1) (a) A peace officer, as defined by [Section 77-1a-1] Title 53, Chapter 10, Peace Officer
18 Classification, may investigate the possible violation of Section 32A-12-203 or Section 76-10-104
19 by requesting a person under the legal age to attempt to purchase alcohol, as provided in Section
20 32A-12-203, or tobacco, as provided in Section 76-10-104, to enter into and attempt to purchase
21 or make a purchase of alcohol or tobacco products from a retail establishment.

22 (b) A peace officer who is present at the site of a proposed purchase shall direct, supervise,
23 and monitor the person requested to make the purchase.

24 (c) Immediately following the purchase or attempted purchase, or as soon as practical, the
25 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
26 establishment that the attempted purchaser was under the legal age to purchase alcohol or tobacco.

27 (d) If a citation or information is issued, it shall be issued within seven days of the
28 purchase.

29 (2) (a) If a person under the age of 18 years old is requested to attempt a purchase, a
30 written consent of that person's parent or guardian shall be obtained prior to that person
31 participating in any attempted purchase.

1 (b) A person requested by the peace officer to attempt a purchase may be a trained
2 volunteer or receive payment but may not be paid based on the number of successful purchases
3 of alcohol or tobacco.

4 (3) The person requested by the peace officer to attempt a purchase and anyone
5 accompanying the person attempting a purchase may not during the attempted purchase
6 misrepresent the age of the person by false or misleading identification documentation in
7 attempting the purchase.

8 (4) A person requested to purchase alcohol or tobacco pursuant to this section is immune
9 from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession
10 of alcohol or tobacco if a peace officer directs, supervises, and monitors the person.

11 (5) (a) Except as provided in Subsection (5)(b), a purchase attempted under this section
12 shall be conducted on a random basis.

13 (b) Nothing in this section shall prohibit an investigation if there is reasonable suspicion
14 to believe the retail establishment has sold alcohol or tobacco to a person under the age established
15 by Section 32A-12-203 or 76-10-104.

16 (6) (a) The peace officer exercising direction, supervision, and monitoring of the attempted
17 purchase shall make a report of the attempted purchase, whether or not a purchase was made.

18 (b) The report shall include:

19 [(a)] (i) the name of the supervising peace officer;

20 [(b)] (ii) the name of the person attempting the purchase;

21 [(c)] (iii) a photograph of the person attempting the purchase showing how that person
22 appeared at the time of the attempted purchase;

23 [(d)] (iv) the name and description of the cashier or proprietor from whom the person
24 attempted the purchase;

25 [(e)] (v) the name and address of the retail establishment; and

26 [(f)] (vi) the date and time of the attempted purchase.

27 Section 58. Section **78-29-101** is amended to read:

28 **78-29-101. Definitions.**

29 For purposes of this part:

30 (1) "Blood or blood-contaminated body fluids" include blood, amniotic fluid, pericardial
31 fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal

1 secretions, and any body fluid visibly contaminated with blood.

2 (2) "Emergency medical services provider" means an emergency medical technician as
3 defined in Section 26-8-2, local fire department personnel, or county jail personnel, who provide
4 prehospital emergency medical care for an emergency medical services agency either as an
5 employee or as a volunteer.

6 (3) "First aid volunteer" means a person who provides voluntary emergency assistance or
7 first aid medical care to an injured person prior to the arrival of an emergency medical services
8 provider or public safety officer.

9 (4) "HIV" means the Human Immunodeficiency Virus infection as determined by current
10 medical standards and detected by any of the following:

11 (a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western
12 blot or other methods approved by the Utah State Health Laboratory. Western blot interpretation
13 will be based on criteria currently recommended by the Association of State and Territorial Public
14 Health Laboratory Directors;

15 (b) presence of HIV antigen;

16 (c) isolation of HIV; or

17 (d) demonstration of HIV proviral DNA.

18 (5) "Public safety officer" means[:] a peace officer as defined in Title 53, Chapter 10,
19 Peace Officer Classification.

20 [~~(a) a peace officer, as defined in Section 77-1a-1;~~]

21 [~~(b) a reserve and auxiliary officer, as defined in Section 77-1a-3; and]~~

22 [~~(c) a special function officer, as defined in Section 77-1a-4.]~~

23 (6) "Significantly exposed" means exposure of the body of one person to HIV or other
24 blood-borne pathogens from the blood of another person by:

25 (a) percutaneous inoculation; or

26 (b) contact with an open wound, nonintact skin which includes chapped, abraded, weeping,
27 or dermatitic skin, or mucous membranes to blood and blood-contaminated body fluids.

28 **Section 59. Repealer.**

29 This act repeals:

30 **Section 76-9-302, Society to prevent cruelty to animals may designate deputy sheriff.**

31 **Section 77-1a-3, Reserve and auxiliary officers.**

Legislative Review Note
as of 1-20-98 3:50 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

- 67 -