

**LAW ENFORCEMENT AND SPECIAL
FUNCTION OFFICER AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Brent H. Goodfellow

This act modifies the Public Safety Code by clarifying that duties of a law enforcement officer do not include the prosecution of cases against violators, and providing that special agents, process servers, and investigators for city attorneys are special function officers. The act includes federal postal inspectors as federal officers. The act also makes some technical corrections.

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

AMENDS:

53-13-103, as renumbered and amended by Chapter 282, Laws of Utah 1998

53-13-105, as last amended by Chapter 92, Laws of Utah 1999

53-13-106, as renumbered and amended by Chapter 282, Laws of Utah 1998

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

Section 1. Section **53-13-103** is amended to read:

53-13-103. Law enforcement officer.

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

(b) "Law enforcement officer" specifically includes the following:

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

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

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

- (iv) any police officer employed by any college or university;
- (v) investigators for the Motor Vehicle Enforcement Division;
- (vi) special agents or investigators ~~[for]~~ employed by the attorney general, district attorneys, and county attorneys;
- (vii) employees of the Department of Natural Resources designated as peace officers by law;
- (viii) school district police officers as designated by the board of education for the school district;
- (ix) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;
- (x) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;
- (xi) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety; and
- (xii) airport police officers of any airport owned or operated by the state or any of its political subdivisions.

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

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise his authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited

geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority, satisfactorily complete:

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

(b) annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 2. Section **53-13-105** is amended to read:

53-13-105. Special function officer.

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

- (i) state military police;
- (ii) constables;
- (iii) port-of-entry agents as defined in Section 72-1-102;
- (iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;
- (v) school district security officers;
- (vi) Utah State Hospital security officers designated pursuant to Section 62A-12-203;
- (vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206(9);
- (viii) fire arson investigators for any political subdivision of the state;
- (ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;
- (x) employees of the Department of Natural Resources who have been designated to conduct

supplemental enforcement functions as a collateral duty [~~shall be special function officers~~];

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

(xii) auxiliary [~~officer~~] officers, as described by Section 53-13-112; [~~and~~]

(xiii) special agents, process servers, and investigators employed by city attorneys; and

~~[(xiii)]~~ (xiv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

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

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

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

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

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the division.

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

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

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

Section 3. Section **53-13-106** is amended to read:

53-13-106. Federal officers -- State law enforcement authority.

(1) (a) "Federal officer" includes:

- (i) a special agent of the Federal Bureau of Investigation;
- (ii) a special agent of the United States Secret Service;
- (iii) a special agent of the United States Customs Service, excluding a customs inspector;
- (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;
- (v) a special agent of the Federal Drug Enforcement Agency; [~~and~~]
- (vi) a United States marshal, deputy marshal, and special deputy United States marshal[-];

and

(vii) a U.S. Postal Inspector of the United States Postal Inspection Service.

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

(c) The council may designate other federal peace officers, as necessary, if the officers:

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

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

(iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.

(2) Except as otherwise provided under Title 63, Chapter 8, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:

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

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

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

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

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