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

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that during a declared state of emergency or local emergency neither the governor nor an agency of a governmental entity or political subdivision may impose restrictions on the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition;
- ▶ provides that during a declared state of emergency an individual, while purporting to act on behalf of the state or a political subdivision, may not confiscate a privately owned firearm of another individual;
- ▶ provides exceptions to the confiscation prohibition; and
- ▶ provides a civil remedy for violation of the confiscation prohibition.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 ENACTS:

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



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

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

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

36 (1) As used in this section:

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

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

40 (A) in self-defense;

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

42 or

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

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

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

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

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

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

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

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

57 (iii) for return of the confiscated firearm.

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

59 an action brought under Subsection (3)(a).

Legislative Review Note
as of 1-22-08 4:27 PM

Office of Legislative Research and General Counsel

S.B. 157 - Rights of Citizens to Carry Firearms in Declared Emergency

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
