

**PROTECTION OF CONSTITUTIONALLY  
GUARANTEED ACTIVITIES IN CERTAIN  
PRIVATE VENUES**

2009 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill modifies Title 34, Labor in General, by enacting Title 34, Chapter 45,  
Protection of Activities in Private Vehicles.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ prohibits certain persons from creating or enforcing a policy that prohibits the storage of firearms in a motor vehicle parked on property owned, leased, or otherwise controlled by the person if:
  - the individual storing the firearm is legally entitled to possess and transport the firearm;
  - the vehicle is locked, or the firearm is in a locked container; and



- the firearm is not in plain view;
- ▶ provides exceptions for persons with secured lots under certain circumstances;
- ▶ prohibits certain persons from creating or enforcing a policy that prohibits the display or possession of items in or on a vehicle parked on property owned, leased, or otherwise controlled by the person if the policy results in a substantial burden on the free exercise of religion;
- ▶ provides protections from civil liability in relation to occurrences that result from, are connected with, or are incidental to the use of a firearm that is properly stored or transported in a motor vehicle in association with this chapter;
- ▶ permits an individual to bring a civil action to enforce the requirements of this chapter;
- ▶ permits a court to grant injunctive relief, declaratory relief, damages, costs, and attorney fees in association with a suit brought to enforce the requirements of this chapter;
- ▶ provides that the chapter does not apply to the following:
  - school premises;
  - state and local government entities; and
  - religious organizations;
- ▶ permits the attorney general to bring an action to enforce the chapter and to request damages on behalf of any individual that has suffered loss due to a violation of this chapter; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**34-45-101**, Utah Code Annotated 1953

**34-45-102**, Utah Code Annotated 1953

**34-45-103**, Utah Code Annotated 1953

34-45-104, Utah Code Annotated 1953  
34-45-105, Utah Code Annotated 1953  
34-45-106, Utah Code Annotated 1953  
34-45-107, Utah Code Annotated 1953

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

Section 1. Section 34-45-101 is enacted to read:

**CHAPTER 45. PROTECTION OF ACTIVITIES IN PRIVATE VEHICLES**

**34-45-101. Title.**

This chapter is known as "Protection of Activities in Private Vehicles."

Section 2. Section 34-45-102 is enacted to read:

**34-45-102. Definitions.**

As used in this chapter:

(1) "Firearm" has the same meaning as provided in Section 76-10-501.

(2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.

(3) "Person" means an individual, property owner, landlord, tenant, employer, business entity, or other legal entity.

Section 3. Section 34-45-103 is enacted to read:

**34-45-103. Protection of certain activities -- Firearms -- Free exercise of religion.**

(1) Except as provided in Subsection (2), a person may not establish, maintain, or enforce any policy or rule that has the effect of:

(a) prohibiting any individual from transporting or storing a firearm in a motor vehicle on any property designated for motor vehicle parking, if:

(i) the individual is legally permitted to transport, possess, purchase, receive, transfer, or store the firearm;

(ii) the firearm is locked securely in the motor vehicle or in a locked container attached to the motor vehicle while the motor vehicle is not occupied; and

(iii) the firearm is not in plain view from the outside of the motor vehicle; or

(b) prohibiting any individual from possessing any item in or on a motor vehicle on any property designated for motor vehicle parking, if the effect of the policy or rule constitutes a substantial burden on that individual's free exercise of religion.

91           (2) A person may establish, maintain, or enforce a policy or rule that has the effect of  
92 placing limitations on or prohibiting an individual from transporting or storing a firearm in a  
93 motor vehicle on property the person has designated for motor vehicle parking if:

94           (a) (i) the property designated for motor vehicle parking is secured by a fence or other  
95 physical barrier; and

96           (ii) access to the property designated for motor vehicle parking is controlled by a guard  
97 or other security measure; and

98           (b) the person provides, or there is otherwise available, one of the following, in a  
99 location on or adjacent to the secured parking area described in Subsection (2)(a):

100           (i) alternative parking for individuals who desire to transport, possess, receive, transfer,  
101 or store a firearm in the individual's motor vehicle; or

102           (ii) a secured and monitored storage location where the individual may securely store a  
103 firearm before proceeding with the vehicle into the secured parking area.

104           Section 4. Section **34-45-104** is enacted to read:

105           **34-45-104. Protection from liability.**

106           A person that owns or controls a parking area that is subject to this chapter and that  
107 complies with the requirements of Section 34-45-103 is not liable in any civil action for any  
108 occurrence resulting from, connected with, or incidental to the use of a firearm, by any person,  
109 unless the use of the firearm involves a criminal act by the person who owns or controls the  
110 parking area.

111           Section 5. Section **34-45-105** is enacted to read:

112           **34-45-105. Cause of action for noncompliance -- Remedies.**

113           (1) An individual who is injured, physically or otherwise, as a result of any policy or  
114 rule prohibited by Section 34-45-103, may bring a civil action in a court of competent  
115 jurisdiction against any person that violates the provisions of Section 34-45-103.

116           (2) Any individual who asserts a claim under this section is entitled to request:

117           (a) declaratory relief;

118           (b) temporary or permanent injunctive relief to prevent the threatened or continued  
119 violation;

120           (c) recovery for actual damages sustained; and

121           (d) if the court determines that the circumstances are appropriate, punitive damages.

(3) The prevailing party in an action brought under this chapter may recover its court costs and reasonable attorney fees incurred.

(4) Nothing in this chapter shall be construed or held to affect any rights or claims made in relation to Title 34A, Chapter 2, Workers' Compensation Act.

Section 6. Section **34-45-106** is enacted to read:

**34-45-106. Enforcement by attorney general.**

(1) The attorney general may bring an action to enforce this chapter and may request any relief that is provided for under Section 34-45-105, including a request for damages on behalf of any individual suffering loss because of a violation of this chapter.

(2) Upon entry of final judgment for a cause of action brought under this section, the §→ [attorney general shall] court may ←§ award restitution, when appropriate, to any individual suffering loss because of a violation of this chapter if proof of loss is submitted to the satisfaction of the court.

Section 7. Section **34-45-107** is enacted to read:

**34-45-107. Exemptions -- Limitations on chapter -- School premises -- Government entities -- Religious organizations -- Single family detached residential units.**

(1) (a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the provisions of this chapter.

(b) Possession of a firearm on or about school premises is subject to the provisions of Section 76-10-505.5.

(2) Government entities, including a local authority or state entity, are subject to the requirements of Title 53, Chapter 5a, Firearm Laws, but are otherwise exempt from the provisions of this chapter.

(3) Religious organizations, including religious organizations acting as an employer, are exempt from, and are not subject to the provisions of this chapter.

(4) Owner-occupied single family detached residential units and tenant-occupied single family detached residential units are exempt from the provisions of this chapter.

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**Legislative Review Note**  
**as of 12-29-08 2:59 PM**

**Office of Legislative Research and General Counsel**

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**Fiscal Note****S.B. 78 - Protection of Constitutionally Guaranteed Activities in Certain  
Private Venues**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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