

**CANINE BODY ARMOR RESTRICTED ACCOUNT AND
INCOME TAX CONTRIBUTION**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill amends the Public Safety Code and the Individual Income Tax Act to enact the Canine Body Armor Restricted Account and provide an income tax contribution for canine body armor.

Highlighted Provisions:

This bill:

- ▶ enacts a chapter within the Public Safety Code to:
 - create the Canine Body Armor Restricted Account;
 - address the administration of the Canine Body Armor Restricted Account;
 - address the distribution of amounts deposited into the Canine Body Armor Restricted Account; and
 - grant rulemaking authority to the Department of Public Safety;
- ▶ includes the Canine Body Armor Restricted Account on the list of nonlapsing funds and accounts;
- ▶ repeals obsolete language;
- ▶ enacts an individual income tax contribution for canine body armor;
- ▶ provides that if the collections from the contribution do not meet a certain threshold amount, the State Tax Commission shall remove the designation for the contribution from the individual income tax return and may not collect the



28 contribution; and
29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides an effective date.

34 This bill has retrospective operation for a taxable year beginning on or after January 1,
35 2011.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **59-10-1304**, as last amended by Laws of Utah 2009, Chapter 17

39 **63J-1-602.3**, as enacted by Laws of Utah 2010, Chapter 265

40 ENACTS:

41 **53-16-101**, Utah Code Annotated 1953

42 **53-16-102**, Utah Code Annotated 1953

43 **53-16-201**, Utah Code Annotated 1953

44 **53-16-301**, Utah Code Annotated 1953

45 **53-16-302**, Utah Code Annotated 1953

46 **59-10-1315**, Utah Code Annotated 1953



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

49 Section 1. Section **53-16-101** is enacted to read:

50 **CHAPTER 16. CANINE BODY ARMOR RESTRICTED ACCOUNT ACT**

51 **Part 1. General Provisions**

52 **53-16-101. Title.**

53 This chapter is known as the "Canine Body Armor Restricted Account Act."

54 Section 2. Section **53-16-102** is enacted to read:

55 **53-16-102. Definitions.**

56 (1) "Canine body armor" means a product:

57 (a) sold or offered for sale as personal protective body covering; and

58 (b) that is intended to protect a police service canine against gunfire, regardless of

59 whether the product is to be worn alone or is sold as a complement to another product or
60 garment.

61 (2) "Police service canine" means a dog that:

62 (a) is used by a law enforcement agency;

63 (b) is specially trained or is in training for law enforcement work; and

64 (c) assists a law enforcement agency in the performance of law enforcement duties.

65 Section 3. Section **53-16-201** is enacted to read:

66 **Part 2. Canine Body Armor Restricted Account**

67 **53-16-201. Canine Body Armor Restricted Account -- Creation -- Interest.**

68 (1) There is created within the General Fund a restricted account known as the "Canine
69 Body Armor Restricted Account."

70 (2) The restricted account shall be funded by the following amounts:

71 (a) contributions deposited into the restricted account in accordance with Section
72 59-10-1315;

73 (b) private contributions;

74 (c) donations or grants from public or private entities;

75 (d) amounts received in accordance with Subsection 53-16-301(9); and

76 (e) interest described in Subsection (3).

77 (3) (a) The restricted account shall earn interest.

78 (b) Interest earned on the restricted account shall be deposited into the restricted
79 account.

80 (4) The commissioner shall distribute money appropriated by the Legislature to the
81 department from the restricted account as provided in Section 53-16-301.

82 Section 4. Section **53-16-301** is enacted to read:

83 **Part 3. Distribution of Amounts in Canine Body Armor Restricted Account**

84 **53-16-301. Commissioner to distribute amounts deposited into Canine Body**
85 **Armor Restricted Account -- Procedures for distribution.**

86 (1) Subject to the other provisions of this section, the commissioner shall distribute
87 amounts deposited into the restricted account in accordance with Section 53-16-201 to one or
88 more law enforcement agencies.

89 (2) A law enforcement agency that receives a distribution from the commissioner in

90 accordance with Subsection (1) shall expend the distribution only to purchase canine body
91 armor for one or more police service canines.

92 (3) In accordance with any rules the department makes as authorized under Section
93 59-16-302, each year a law enforcement agency may apply to the commissioner to receive a
94 distribution under this section by filing an application with the department:

- 95 (a) on or before November 1; and
- 96 (b) on a form provided by the department.

97 (4) The application:

98 (a) shall include:

99 (i) information required by the department establishing that the law enforcement
100 agency intends to expend the distribution to purchase canine body armor for one or more police
101 service canines;

102 (ii) a written cost estimate prepared by the seller of the canine body armor of the cost
103 of the canine body armor the law enforcement agency seeks to purchase;

104 (iii) information required by the department establishing that each police service canine
105 for which the law enforcement agency seeks to purchase canine body armor:

106 (A) is owned by and in the possession of the law enforcement agency;

107 (B) is specially trained or is in training for law enforcement work;

108 (C) assists or will assist a law enforcement agency in the performance of law
109 enforcement duties; and

110 (D) has been trained by or is training with a law enforcement officer who is qualified to
111 train a police service canine; and

112 (iv) information required by the department establishing that the law enforcement
113 agency has a vehicle to transport each police service canine for which the law enforcement
114 agency seeks to purchase canine body armor; and

115 (b) may include other information the department requires by rule.

116 (5) The department shall determine on or before the November 30 immediately
117 following the November 1 described in Subsection (3) whether a law enforcement agency's
118 application to the department meets the requirements of Subsection (4).

119 (6) Subject to Subsections (7) and (8), the commissioner shall distribute money
120 appropriated by the Legislature to the department from the restricted account to one or more

121 law enforcement agencies that meet the requirements of Subsection (4):

122 (a) in a total amount that does not exceed the money appropriated by the Legislature to
123 the department from the restricted account;

124 (b) on or before the December 31 immediately following the November 1 described in
125 Subsection (3); and

126 (c) in an amount that for a calendar year for each law enforcement agency described in
127 this Subsection (6) does not exceed the lesser of:

128 (i) \$3,000; or

129 (ii) the amount listed on the written cost estimate described in Subsection (4)(a)(ii).

130 (7) If the total amount of distributions law enforcement agencies seek under this
131 section exceeds the money appropriated by the Legislature to the department from the restricted
132 account, the commissioner shall make the distributions required by this section in the order of
133 the date each law enforcement agency files the application required by Subsection (3) with the
134 department until the appropriation from the restricted account is expended.

135 (8) If the total amount of distributions the commissioner makes under Subsection (6) is
136 less than the money appropriated by the Legislature to the department from the restricted
137 account, the commissioner shall make an additional distribution to one or more law
138 enforcement agencies:

139 (a) that:

140 (i) meet the requirements of Subsection (4); and

141 (ii) provide a written cost estimate described in Subsection (4)(a)(ii) to the department
142 that exceeds \$3,000;

143 (b) in an amount that for a calendar year for each law enforcement agency described in
144 this Subsection (8) does not exceed the lesser of:

145 (i) \$3,000; or

146 (ii) the difference between the amount listed on the written cost estimate described in
147 Subsection (4)(a)(ii) and \$3,000;

148 (c) in the order of the date each law enforcement agency files the application required
149 by Subsection (3) with the department; and

150 (d) until the sooner of:

151 (i) the date each law enforcement agency described in this Subsection (8) receives an

152 additional distribution of not to exceed the amount described in Subsection (8)(b); or
153 (ii) the date the appropriation from the restricted account is expended.
154 (9) If a law enforcement agency that receives a distribution under this section does not
155 expend the distribution to purchase canine body armor within 90 days after the date the law
156 enforcement agency receives the distribution:
157 (a) the law enforcement agency shall return the distribution to the department; and
158 (b) the department shall deposit the distribution a law enforcement agency returns in
159 accordance with Subsection (9)(a) into the restricted account.

160 Section 5. Section **53-16-302** is enacted to read:

161 **53-16-302. Department rulemaking authority.**

162 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
163 department may make rules consistent with Section 53-16-301 prescribing information that a
164 law enforcement agency shall include with an application under Section 53-16-301.

165 Section 6. Section **59-10-1304** is amended to read:

166 **59-10-1304. Removal of designation and prohibitions on collection for certain**
167 **contributions on income tax return -- Conditions for removal and prohibitions on**
168 **collection -- Commission reporting requirements.**

169 (1) (a) If a contribution or combination of contributions described in Subsection (1)(b)
170 generate less than \$30,000 per year for three consecutive years, the commission shall remove
171 the designation for the contribution from the individual income tax return and may not collect
172 the contribution from a resident or nonresident individual beginning two taxable years after the
173 three-year period for which the contribution generates less than \$30,000 per year.

174 (b) The following contributions apply to Subsection (1)(a):

175 (i) the contribution provided for in Section 59-10-1305;

176 (ii) the contribution provided for in Section 59-10-1306;

177 (iii) the sum of the contributions provided for in Subsection 59-10-1307(1);

178 (iv) the contribution provided for in Section 59-10-1308; ~~or~~

179 (v) the contribution provided for in Section 59-10-1310~~[-];~~ or

180 (vi) the contribution provided for in Section 59-10-1315.

181 (2) If the commission removes the designation for a contribution under Subsection (1),
182 the commission shall report to the Revenue and Taxation Interim Committee that the

183 commission removed the designation on or before the November interim meeting of the year in
184 which the commission determines to remove the designation.

185 Section 7. Section **59-10-1315** is enacted to read:

186 **59-10-1315. Contribution to Canine Body Armor Restricted Account.**

187 (1) Except as provided in Section 59-10-1304, for a taxable year beginning on or after
188 January 1, 2011, a resident or nonresident individual that files an individual income tax return
189 under this chapter may designate on the resident or nonresident individual's individual income
190 tax return a contribution as provided in this section to be:

191 (a) deposited into the Canine Body Armor Restricted Account created in Section
192 53-16-201; and

193 (b) expended as provided in Title 53, Chapter 16, Canine Body Armor Restricted
194 Account Act.

195 (2) The commission shall:

196 (a) determine the total amount of contributions designated in accordance with this
197 section for a taxable year; and

198 (b) credit the amount described in Subsection (2)(a) to the Canine Body Armor
199 Restricted Account created in Section 53-16-201.

200 Section 8. Section **63J-1-602.3** is amended to read:

201 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

202 (1) Certain funds associated with the Law Enforcement Operations Account, as
203 provided in Section 51-9-411.

204 (2) The Public Safety Honoring Heroes Restricted Account created in Section
205 53-1-118.

206 (3) Funding for the Search and Rescue Financial Assistance Program, as provided in
207 Section 53-2-107.

208 (4) Appropriations made to the Department of Public Safety from the Department of
209 Public Safety Restricted Account, as provided in Section 53-3-106.

210 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section
211 53-3-905.

212 (6) The DNA Specimen Restricted Account created in Section 53-10-407.

213 (7) The Canine Body Armor Restricted Account created in Section 53-16-201.

214 ~~[(7)]~~ (8) Appropriations to the State Board of Education, as provided in Section
215 53A-17a-105.

216 ~~[(8)]~~ (9) Certain funds appropriated from the Uniform School Fund to the State Board
217 of Education for new teacher bonus and performance-based compensation plans, as provided in
218 Section 53A-17a-148.

219 ~~[(9) Certain funds appropriated from the Uniform School Fund to the State Board of
220 Education for implementation of proposals to improve mathematics achievement test scores, as
221 provided in Section 53A-17a-152.]~~

222 (10) The School Building Revolving Account created in Section 53A-21-401.

223 (11) Money received by the State Office of Rehabilitation for the sale of certain
224 products or services, as provided in Section 53A-24-105.

225 (12) The State Board of Regents, as provided in Section 53B-6-104.

226 (13) Certain funds appropriated from the General Fund to the State Board of Regents
227 for teacher preparation programs, as provided in Section 53B-6-104.

228 (14) A certain portion of money collected for administrative costs under the School
229 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

230 (15) Certain surcharges on residence and business telecommunications access lines
231 imposed by the Public Service Commission, as provided in Section 54-8b-10.

232 (16) Certain fines collected by the Division of Occupational and Professional Licensing
233 for violation of unlawful or unprofessional conduct that are used for education and enforcement
234 purposes, as provided in Section 58-17b-505.

235 (17) The Nurse Education and Enforcement Account created in Section 58-31b-103.

236 (18) The Certified Nurse Midwife Education and Enforcement Account created in
237 Section 58-44a-103.

238 (19) Certain fines collected by the Division of Occupational and Professional Licensing
239 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
240 Section 58-63-103.

241 (20) The Professional Geologist Education and Enforcement Account created in
242 Section 58-76-103.

243 (21) Certain money in the Water Resources Conservation and Development Fund, as
244 provided in Section 59-12-103.

245 Section 9. **Retrospective operation -- Effective date.**

246 (1) The amendments to Section 59-10-1304 have retrospective operation for a taxable
247 year beginning on or after January 1, 2011.

248 (2) The enactment of Section 59-10-1315 has retrospective operation for a taxable year
249 beginning on or after January 1, 2011.

250 (3) The amendments to Section 63J-1-602.3 take effect on May 10, 2011.

251 (4) The enactments of the following sections take effect on May 10, 2011:

252 (a) Section 53-16-101;

253 (b) Section 53-16-102;

254 (c) Section 53-16-201;

255 (d) Section 53-16-301; and

256 (e) Section 53-16-302.

Legislative Review Note

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Office of Legislative Research and General Counsel