

FIREARMS SAFE HARBOR

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dixon M. Pitcher

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts language authorizing a cohabitant to voluntarily commit a firearm to law enforcement for a limited period.

Highlighted Provisions:

This bill:

▶ enacts Title 53, Chapter 5c, Firearms Safe Harbor, including:

- enacting general provisions;
- enacting provisions authorizing a cohabitant who owns a firearm (owner cohabitant) to voluntarily commit the firearm to law enforcement for 60 days if the cohabitant believes another cohabitant is an immediate threat;
- enacting provisions requiring law enforcement to confiscate a firearm that is voluntarily committed if it is an illegal firearm;
- enacting provisions authorizing law enforcement to dispose of a firearm if the owner cohabitant does not claim a firearm; and
- enacting provisions allowing law enforcement to return the firearm to a person other than an owner cohabitant who claims ownership of the firearm.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 ENACTS:

30 **53-5c-101**, Utah Code Annotated 1953

31 **53-5c-102**, Utah Code Annotated 1953

32 **53-5c-201**, Utah Code Annotated 1953

33 **53-5c-202**, Utah Code Annotated 1953



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

36 Section 1. Section **53-5c-101** is enacted to read:

37 **CHAPTER 5c. FIREARMS SAFE HARBOR**

38 **Part 1. General Provisions**

39 **53-5c-101. Title.**

40 This chapter is known as "Firearms Safe Harbor."

41 Section 2. Section **53-5c-102** is enacted to read:

42 **53-5c-102. Definitions.**

43 (1) "Cohabitant" means a person who is 21 years of age or older who resides in the
44 same residence as the other party.

45 (2) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short
46 barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a
47 projectile by action of an explosive.

48 (3) "Illegal firearm" means a firearm the ownership or possession of which is
49 prohibited under state or federal law.

50 (4) "Law enforcement agency" means a municipal or county police agency or an officer
51 of that agency.

52 (5) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a firearm.

53 (6) "Public interest use" means:

54 (a) use by a government agency as determined by the legislative body of the agency's
55 jurisdiction; or

56 (b) donation to a bona fide charity.

57 Section 3. Section **53-5c-201** is enacted to read:

58 **Part 2. Voluntary Commitment of Firearm**

59 **53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law**
 60 **enforcement to hold firearm -- Exempt from criminal prosecution.**

61 (1) ~~H~~→ (a) ←~~H~~ An owner cohabitant may voluntarily commit a firearm to a law
 61a enforcement
 62 agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate
 63 threat to:

64 ~~H~~→ [~~(a)~~] (i) ←~~H~~ himself or herself;

65 ~~H~~→ [~~(b)~~] (ii) ←~~H~~ the owner cohabitant; or

66 ~~H~~→ [~~(c)~~] (iii) ←~~H~~ any other person.

66a ~~H~~→ (b) **A law enforcement agency may not hold a firearm under this section if the law**
 66b **enforcement agency obtains the firearm in a manner other than the owner cohabitant**
 66c **voluntarily presenting, of his or her own free will, the firearm to the law enforcement agency**
 66d **at the agency's office.** ←~~H~~

67 (2) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law
 68 enforcement agency that receives a firearm in accordance with this chapter shall:

69 (a) record:

70 (i) the owner cohabitant's name, address, and phone number;

71 (ii) the firearm serial number; and

72 (iii) the date that the firearm was voluntarily committed;

73 (b) require the owner cohabitant to sign a document attesting that the owner cohabitant
 74 has an ownership interest in the firearm;

75 (c) hold the firearm in safe custody for 60 days after the day on which it is voluntarily
 76 committed; and

77 (d) upon proof of identification, return the firearm to:

78 (i) the owner cohabitant after the expiration of the 60-day period or, if the owner
 79 cohabitant requests return of the firearm before the expiration of the 60-day period, at the time
 80 of the request; or

81 (ii) to an owner other than the owner cohabitant in accordance with Section 53-5c-202.

82 (3) The law enforcement agency shall hold the firearm for an additional 60 days:

83 (a) if the initial 60-day period expires; and

84 (b) the owner cohabitant requests that the law enforcement agency hold the firearm for
 85 an additional 60 days.

86 (4) A law enforcement agency may not request or require that the owner cohabitant
 87 provide the name or other information of the cohabitant who poses an immediate threat or any

88 other cohabitant.

88a **Ĥ→ (5) Notwithstanding an ordinance or policy to the contrary adopted in accordance with**
88b **63G-2-701, a law enforcement agency shall destroy a record created under Subsection (2),**
88c **Subsection 53-5c-202(4)(b)(iii), or any other record created in the application of this chapter**
88d **no later than five days after:**

88e **(a) returning a firearm in accordance with Subsection (2)(d); or**

88f **(b) appropriating, selling, or destroying the firearm in accordance with**

88g **Section 53-5c-202.**

89 **[~~(5)~~] (6) ←Ĥ Unless otherwise provided, the provisions of Title 77, Chapter 24,**

89a **Disposal of**

90 Property Received by Peace Officer, do not apply to a firearm received by a law enforcement
 91 agency in accordance with this chapter.

91a **Ĥ→ (7) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in**
 91b **accordance with this chapter. ←Ĥ**

92 Section 4. Section **53-5c-202** is enacted to read:

93 **53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

94 (1) If a law enforcement agency receives a firearm in accordance with Section
 95 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:

96 (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the
 97 firearm is an illegal firearm; and

98 (b) confiscate the firearm and dispose of it as the head of the law enforcement agency
 99 determines.

100 (2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner
 101 cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement
 102 agency may:

103 (i) appropriate the firearm to public interest use as provided in Subsection (3);

104 (ii) sell the firearm at public auction as provided by law and appropriate the proceeds
 105 of the sale to public interest use; or

106 (iii) destroy the firearm if unfit for sale.

107 (b) A law enforcement agency may take an action in accordance with Subsection (2)(a)
 108 no earlier than one year after the day on which the owner cohabitant initially voluntarily
 109 commits the firearm in accordance with Section 53-5c-201.

110 (3) Before appropriating the firearm to public interest use, the law enforcement agency,
 111 having possession of the firearm, shall obtain from the legislative body of its jurisdiction:

112 (a) permission to appropriate the firearm to public interest use; and

113 (b) the designation and approval of the public interest use of the firearm.

114 (4) (a) If a person other than an owner cohabitant who voluntarily commits a firearm in
 115 accordance with Section 53-5c-201 claims ownership of the firearm, the person may:

116 (i) request that the law enforcement agency return the firearm in accordance with
 117 Subsection (4)(b); or

118 (ii) petition the court for the firearm's return in accordance with Subsection (4)(c).

119 (b) **Ĥ→ [The] Except as provided in Section 53-5c-201, the ←Ĥ** law enforcement agency
 119a shall return a firearm to a person other than an owner
 120 cohabitant who claims ownership of the firearm if:

- 121 (i) the 60-day period described in Section 53-5c-201 has expired;
- 122 (ii) the person provides identification; and
- 123 (iii) the person signs a document attesting that the person has an ownership interest in
- 124 the firearm.
- 125 (c) After sufficient notice is given to the prosecutor, the court may order that the
- 126 firearm be:
- 127 (i) returned to the rightful owner as determined by the court;
- 128 (ii) converted to public interest use; or
- 129 (iii) destroyed.
- 130 (d) A law enforcement agency shall return a firearm ordered returned to the rightful
- 131 owner as expeditiously as possible after a court determination.

Legislative Review Note
as of 1-16-13 9:00 AM

Office of Legislative Research and General Counsel