

**LAW ENFORCEMENT MODIFICATIONS**

2013 FIRST SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies all sections of the Utah Code that were amended by H.B. 155, Federal Law Enforcement Amendments, in the 2013 General Session, in order to reverse all changes made by H.B. 155.

**Highlighted Provisions:**

This bill:

► removes all amendments to Sections 53-13-106, 53-13-106.5, and 76-8-512 that were made by the enactment of H.B. 155, Federal Law Enforcement Amendments, in the 2013 General Session.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**53-13-106**, as last amended by Laws of Utah 2013, Chapters 115 and 475

**53-13-106.5**, as last amended by Laws of Utah 2013, Chapters 115 and 475

**76-8-512**, as last amended by Laws of Utah 2013, Chapter 475

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



28 Section 1. Section **53-13-106** is amended to read:

29 **53-13-106. Federal officers -- State law enforcement authority.**

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

31 (i) a special agent of the Federal Bureau of Investigation;

32 (ii) a special agent of the United States Secret Service;

33 (iii) a special agent of the United States Department of Homeland Security, excluding a  
34 customs inspector or detention removal officer;

35 (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;

36 (v) a special agent of the Drug Enforcement Administration;

37 (vi) a United States marshal, deputy marshal, and special deputy United States marshal;

38 and

39 (vii) a [~~United States~~] U.S. postal inspector of the United States Postal Inspection  
40 Service.

41 (b) (i) Federal officers listed in Subsection (1)(a) have statewide law enforcement  
42 authority relating to felony offenses under the laws of this state. This Subsection (1)(b)(i) takes  
43 precedence over Subsection (2).

44 (ii) Federal agencies and federal employees as defined in Subsection 53-13-106.5(1)  
45 may exercise law enforcement authority related to misdemeanor and felony offenses under  
46 Utah law only as [~~authorized by and in accordance with Subsections 53-13-106.5(2) through~~  
47 ~~(8)] established by an agreement under Subsection 53-13-106.5(7). This Subsection (1)(b)(ii)  
48 takes precedence over Subsection (2).~~

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

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

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

55 (iii) maintain in-service training in accordance with the standards set forth in Section  
56 53-13-103.

57 (2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and  
58 Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law

59 enforcement authority only if:

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

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

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

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

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

72 Section 2. Section **53-13-106.5** is amended to read:

73 **53-13-106.5. State limitations on functions of federal law enforcement officers.**

74 (1) As used in this section:

75 [~~(a) "Exercise law enforcement authority" means:~~]

76 [~~(i) to take any action on private land, state-owned land, or federally managed land, to~~  
77 ~~investigate, stop, serve process, search, arrest, cite, book, or incarcerate a person for a violation~~  
78 ~~of a federal, state, or local criminal justice system when the action is based on:~~]

79 [~~(A) a federal statute, regulation, or rule;~~]

80 [~~(B) a state or local statute, ordinance, regulation, or rule; or~~]

81 [~~(C) a state or local statute, ordinance, regulation, or rule that has been assimilated into~~  
82 ~~federal law under a federal assimilation statute; or~~]

83 [~~(ii) to gain access to or use the correctional or communication facilities and equipment~~  
84 ~~of any state or local law enforcement agency.~~]

85 [~~(b)~~] (a) "Federal agency" means a federal agency that manages federally managed land  
86 [~~or regulates activities on that land, including:~~].

87 [~~(i) the United States Bureau of Land Management;~~]

88 [~~(ii) the United States Forest Service;~~]

89 [~~(iii) the National Park Service;~~]

90 ~~[(iv) the United States Fish and Wildlife Service;]~~

91 ~~[(v) the United States Bureau of Reclamation;]~~

92 ~~[(vi) the United States Environmental Protection Agency; and]~~

93 ~~[(vii) the United States Army Corps of Engineers;]~~

94 ~~[(e)]~~ (b) "Federal employee" means an employee ~~[or other agent of a federal agency;~~  
95 ~~but does not include] of:~~

96 ~~[(i) a special agent of the Federal Bureau of Investigation;]~~

97 ~~[(ii) a special agent of the United States Secret Service;]~~

98 ~~[(iii) a special agent of the United States Department of Homeland Security, excluding~~  
99 ~~a customs inspector or detention removal officer;]~~

100 ~~[(iv) a special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives];~~

101 ~~[(v) a special agent of the United States Drug Enforcement Administration;]~~

102 ~~[(vi) a United States marshal, deputy marshal, or special deputy United States marshal;~~  
103 ~~or]~~

104 ~~[(vii) a United States postal inspector of the United States Postal Inspection Service;]~~

105 (i) the Bureau of Land Management;

106 (ii) the United States Forest Service; or

107 (iii) the National Park Service.

108 ~~[(d)]~~ (c) "Federally managed land" means land managed by the following federal  
109 agencies:

110 (i) ~~[the United States]~~ Bureau of Land Management;

111 (ii) ~~[the]~~ United States Forest Service; and

112 (iii) the National Park Service[;].

113 ~~[(iv) the United States Fish and Wildlife Service; and]~~

114 ~~[(v) the United States Bureau of Reclamation;]~~

115 (2) Unless otherwise provided by Utah law, federal employees performing their duties  
116 in Utah:

117 (a) may not exercise law enforcement authority solely because the land on which they  
118 exercise the authority is federally managed; and

119 (b) may exercise only law enforcement authority:

120 (i) expressly granted by federal statute; and

121 (ii) consistent with the Constitution of the United States.

122 (3) Utah does not authorize federal employees to exercise law enforcement powers to  
123 enforce the laws of Utah, either on or off federally managed land except as authorized under  
124 this section or other provisions of state statute.

125 (4) (a) Utah does not recognize the authority of employees or agents of the United  
126 States Department of Interior to exercise law enforcement powers ~~[in any county when the~~  
127 ~~exercise of the authority: (i) occurs before the United States Secretary of the Interior has~~  
128 ~~achieved the maximum feasible reliance upon the county's law enforcement officials in~~  
129 ~~enforcing federal laws and regulations for the management, use, and protection of lands~~  
130 ~~managed by the United States Bureau of Land Management, as required under 43 U.S.C. Sec.~~  
131 ~~1733(c)(2); or (ii) goes]~~ beyond those powers strictly necessary for the management, use, and  
132 protection of federally managed lands, including property located on these lands, as limited by  
133 43 U.S.C. ~~[Sec.]~~ 1733(a) and 1733(c)(2).

134 (b) As required by Congress in 43 U.S.C. ~~[Sec.]~~ 1733(c)(1), when the Secretary of  
135 Interior determines that state or local assistance is necessary in enforcing federal laws and  
136 regulations relating to federally managed lands or the resources on those lands, the secretary  
137 shall offer a contract to appropriate state or local law enforcement agencies of the state with the  
138 purpose of achieving maximum feasible reliance upon state or local law enforcement officials  
139 in enforcing the federal laws and regulations.

140 (5) Utah does not authorize federal employees to take action based on the Utah Code,  
141 Utah Administrative Rules, or county or municipal ordinances as a basis to ~~[stop, detain,]~~  
142 ~~arrest[;]~~ or cite persons for prosecution in the federal criminal justice system, unless the action:

143 (a) has been expressly granted by federal statute; and

144 (b) is consistent with the Constitution of the United States.

145 ~~[(6) The authority of a United States Forest Service employee who is not a trained and~~  
146 ~~certified law enforcement officer and the authority of any employee of the United States~~  
147 ~~Bureau of Land Management to take action based on the Utah Code, Utah Administrative~~  
148 ~~Rules, or county or municipal ordinances, or a federal assimilation of any of these provisions,~~  
149 ~~as a basis to stop, detain, arrest, or cite persons for prosecution in the federal criminal justice~~  
150 ~~system, is not recognized, unless:]~~

151 ~~[(a) (i) the authority for the action has been expressly granted by an enacted federal~~

152 ~~statute and not by assimilation of any state laws or ordinances; and]~~

153  ~~[(ii) is consistent with the Constitution of the United States; or]~~

154  ~~[(b) (i) the offense is an emergency and poses an immediate risk of bodily injury or~~  
155  ~~damage to property;]~~

156  ~~[(ii) a state, county, or municipal law enforcement officer is not reasonably available to~~  
157  ~~take action; and]~~

158  ~~[(iii) (A) the action is within the scope of the employee's or official's law enforcement~~  
159  ~~power under a federal law that is enacted and that is not an assimilation of a state law or~~  
160  ~~ordinance; and]~~

161  ~~[(B) the authorizing federal law is consistent with the Constitution of the United~~  
162  ~~States;]~~

163  ~~[(7)]~~ (6) State and local government agencies may not allow any federal agency access  
164 to or use of the correctional and communication facilities and equipment of any state or local  
165 law enforcement agency without the express written consent of the appropriate responsible  
166 official of the state or local law enforcement agency.

167  ~~[(8)(a) Local]~~ (7) State and local law enforcement agencies may enter into agreements  
168 with federal agencies granting [~~limited~~] concurrent authority to [~~specific federal employees to~~  
169 ~~exercise law enforcement powers to]~~ enforce federal laws and state and local laws, provided  
170 the agreements are limited to a term not to exceed two years and the officers granted authority  
171 have completed a 20-hour course focusing on Utah law and process approved by the director of  
172 the Peace Officer Standards and Training Division.

173  ~~[(b) State law enforcement agencies may, with the consent of the local county sheriff,~~  
174  ~~enter into agreements as described in Subsection (8)(a), provided that the agreements may not~~  
175  ~~exceed a duration of two years;]~~

176  ~~[(9)]~~ (8) (a) County sheriffs shall regularly review the duties and activities of federal  
177 agencies that have law enforcement responsibilities and that are acting within the jurisdictional  
178 area of the county to determine if the federal agencies are acting consistently with this section.

179 (b) County sheriffs shall annually report to the county attorney or district attorney of  
180 their jurisdiction the results of all reviews conducted under this Subsection (8).

181 Section 3. Section **76-8-512** is amended to read:

182 **76-8-512. Impersonation of officer.**

183 A person is guilty of a class B misdemeanor who:

184 (1) impersonates a public servant or a peace officer with intent to deceive another or  
 185 with intent to induce another to submit to ~~[the person's]~~ his pretended official authority or to  
 186 rely upon ~~[the person's]~~ his pretended official act;

187 (2) falsely states ~~[the person]~~ he is a public servant or a peace officer with intent to  
 188 deceive another or to induce another to submit to ~~[the person's]~~ his pretended official authority  
 189 or to rely upon ~~[the person's]~~ his pretended official act; or

190 (3) displays or possesses without authority any badge, identification card, other form of  
 191 identification, any restraint device, or the uniform of any state or local governmental entity, or a  
 192 reasonable facsimile of any of these items, with the intent to deceive another or with the intent  
 193 to induce another to submit to ~~[the person's]~~ his pretended official authority or to rely upon the  
 194 ~~[person's]~~ his pretended official act~~[-or]~~.

195 ~~[(4) exercises law enforcement authority in violation of Section 53-13-106.5 and is an~~  
 196 ~~employee of the:]~~

197 ~~[(a) United States Bureau of Land Management; or]~~

198 ~~[(b) (i) United States Forest Service; and]~~

199 ~~[(ii) is not a certified law enforcement officer.]~~

200 Section 4. **Effective date.**

201 If approved by two-thirds of all the members elected to each house, this bill takes effect  
 202 upon approval by the governor, or the day following the constitutional time limit of Utah  
 203 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
 204 the date of veto override.

**Legislative Review Note**  
 as of 7-16-13 4:19 PM

**Office of Legislative Research and General Counsel**