

HB1004S01 compared with HB1004

~~{deleted text}~~ shows text that was in HB1004 but was deleted in HB1004S01.

Inserted text shows text that was not in HB1004 but was inserted into HB1004S01.

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Representative Michael E. Noel proposes the following substitute bill:

LAW ENFORCEMENT MODIFICATIONS

2013 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

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}~~ and repeals all other provisions of Section 53-13-106.5.

Highlighted Provisions:

This bill:

- ▶ removes all ~~{amendments to}~~ provisions enacted by H.B. 155, Federal Law Enforcement Amendments (2013 General Session), modifies Sections 53-13-106~~{, 53-13-106.5,}~~ and 76-8-512 to remove amendments that were made by the enactment of H.B. 155, ~~{Federal Law Enforcement Amendments, in the 2013 General Session}~~ and repeals Section 53-13-106.5.

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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

[76-8-512, as last amended by Laws of Utah 2013, Chapter 475](#)

REPEALS:

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](#)~~

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

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

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

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

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

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

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

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

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

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

and

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

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

(ii) Federal agencies and federal employees ~~[as defined in Subsection 53-13-106.5(1)]~~ may exercise law enforcement authority related to misdemeanor and felony offenses under

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Utah law only as [authorized by and in accordance with Subsections 53-13-106.5(2) through (8)] established by an agreement ~~{ under Subsection 53-13-106.5(7)}~~. This Subsection (1)(b)(ii) takes precedence over Subsection (2).

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

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

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

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

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

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

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

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

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

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

Section 2. Section ~~{53-13-106.5}~~ 76-8-512 is amended to read:

~~{~~ ~~53-13-106.5. State limitations on functions of federal law enforcement officers.~~

~~_____ (1) As used in this section:~~

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

~~_____ [(i) to take any action on private land, state-owned land, or federally managed land, to~~

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~~investigate, stop, serve process, search, arrest, cite, book, or incarcerate a person for a violation of a federal, state, or local criminal justice system when the action is based on:]~~

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

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

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

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

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

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

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

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

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

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

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

~~—— [(vii) the United States Army Corps of Engineers.]~~

~~—— [(c)] (b) "Federal employee" means an employee [or other agent of a federal agency, but does not include] of:~~

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

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

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

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

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

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

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

~~—— (i) the Bureau of Land Management;~~

~~—— (ii) the United States Forest Service; or~~

~~—— (iii) the National Park Service.~~

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

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

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

~~——— (iii) the National Park Service[.];~~

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

~~——— [(v) the United States Bureau of Reclamation.]~~

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

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

~~——— (b) may exercise only law enforcement authority:~~

~~——— (i) expressly granted by federal statute; and~~

~~——— (ii) consistent with the Constitution of the United States.~~

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

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

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

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~~in enforcing the federal laws and regulations:~~

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

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

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

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

~~—— [(a) (i) the authority for the action has been expressly granted by an enacted federal statute and not by assimilation of any state laws or ordinances; and]~~

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

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

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

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

~~—— [(B) the authorizing federal law is consistent with the Constitution of the United States.]~~

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

~~—— [(8) (a) Local] (7) State and local law enforcement agencies may enter into agreements with federal agencies granting [limited] concurrent authority to [specific federal employees to exercise law enforcement powers to] enforce federal laws and state and local laws, provided~~

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~~the agreements are limited to a term not to exceed two years and the officers granted authority have completed a 20-hour course focusing on Utah law and process approved by the director of the Peace Officer Standards and Training Division.~~

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

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

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

~~——— Section 3. Section 76-8-512 is amended to read:~~

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

A person is guilty of a class B misdemeanor who:

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

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

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

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

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

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

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

Section 3. Repealer.

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This bill repeals:

Section 53-13-106.5, State limitations on functions of federal law enforcement

officers.

Section 4. **Effective date.**

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

†

Legislative Review Note

~~as of 7-16-13 4:19 PM~~

~~Office of Legislative Research and General Counsel~~