

**CONCEALED CARRY EXEMPTION DURING STATE OF EMERGENCY**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: A. Cory Maloy**

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

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**LONG TITLE**

**General Description:**

This bill suspends the requirement to have a concealed carry permit to carry a firearm during a declared state of emergency.

**Highlighted Provisions:**

This bill:

- ▶ suspends the requirement to have a concealed carry permit if:
  - the person may lawfully possess a firearm; and
  - a state of emergency has been declared locally or statewide; and
- ▶ limits the suspension to the area over which the state of emergency extends.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-2a-214**, as renumbered and amended by Laws of Utah 2013, Chapter 295

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

Section 1. Section **53-2a-214** is amended to read:



28           **53-2a-214. Prohibition of restrictions on and confiscation of a firearm or**  
29 **ammunition during an emergency.**

30           (1) As used in this section:

31           (a) (i) "Confiscate" means for an individual in Utah to intentionally deprive another of  
32 a privately owned firearm.

33           (ii) "Confiscate" does not include the taking of a firearm from an individual:

34           (A) in self-defense;

35           (B) possessing a firearm while the individual is committing a felony or misdemeanor;

36 or

37           (C) who may not, under state or federal law, possess the firearm.

38           (b) "Firearm" has the same meaning as defined in Section [76-10-501](#).

39           (2) During a declared state of emergency or local emergency under this part:

40           (a) neither the governor nor an agency of a governmental entity or political subdivision  
41 of the state may impose restrictions, which were not in force before the declared state of  
42 emergency, on the lawful possession, transfer, sale, transport, storage, display, or use of a  
43 firearm or ammunition; [~~and~~]

44           (b) an individual, while acting or purporting to act on behalf of the state or a political  
45 subdivision of the state, may not confiscate a privately owned firearm of another individual;  
46 and

47           (c) the requirement to have a permit to carry a concealed firearm, in accordance with  
48 Sections [53-5-704](#) and [53-5-705](#), is suspended in the area over which the state of emergency  
49 applies for any individual who may lawfully own a firearm.

50           (3) A law or regulation passed during a declared state of emergency that does not relate  
51 specifically to the lawful possession or use of a firearm and that has attached criminal penalties  
52 may not be used to justify the confiscation of a firearm from an individual acting in defense of  
53 self, property, or others when on:

54           (a) the individual's private property; or

55           (b) the private property of another as an invitee.

56           (4) (a) An individual who has a firearm confiscated in violation of Subsection (2) may  
57 bring a civil action in a court having the appropriate jurisdiction:

58           (i) for damages, in the maximum amount of \$10,000, against a person who violates

59 Subsection (2);

60 (ii) for a civil penalty, in the amount of \$5,000 per violation, against a person who  
61 violates Subsection (2); and

62 (iii) for return of the confiscated firearm.

63 (b) As used in this Subsection (4), "person" means an individual, the governmental  
64 entity on whose behalf the individual is acting or purporting to act, or both the individual and  
65 the governmental entity.

66 (5) (a) A law enforcement officer is not subject to disciplinary action for refusing to  
67 confiscate a firearm under this section if:

68 (i) ordered or directed to do so by a superior officer; and

69 (ii) by obeying the order or direction, the law enforcement officer would be committing  
70 a violation of this section.

71 (b) For purposes of this Subsection (5), disciplinary action might include:

72 (i) dismissal, suspension, or demotion;

73 (ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

74 (iii) any type of written or electronic indication, permanent or temporary, on the  
75 officer's personnel record of the officer's refusal to obey the unlawful order.

76 (6) (a) If a law enforcement officer commits a violation of this section, the officer's  
77 liability in an action brought under Subsection (4)(a) is limited to 5% of the damages and civil  
78 penalty allowed under Subsection (4)(a) if the officer can show by clear and convincing  
79 evidence that the officer was obeying a direct and unlawful order from a superior officer or  
80 authority.

81 (b) The court shall assess the balance of the damages and civil penalty, the remaining  
82 95%, against the superior officer or authority who ordered or directed the confiscation in  
83 violation of this section.