

1 **AMENDMENTS TO FEDERAL LAW ENFORCEMENT**

2 **LIMITATIONS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael E. Noel**

6 Senate Sponsor: _____

7

LONG TITLE

8 **General Description:**

9
10 This bill modifies the Public Safety Code regarding the authority of federal, state, and
11 local law enforcement officers.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies current law regarding state and local law enforcement officers' recognition
- 15 of law enforcement authority by federal agencies and employees;
- 16 ▶ defines the exercise of law enforcement authority, including on state land, private
- 17 land, and federal land;
- 18 ▶ defines federal employee for the purposes of this bill;
- 19 ▶ defines proprietary jurisdiction of federally managed land;
- 20 ▶ describes when state and local law enforcement officers may recognize a federal
- 21 employee's exercise of law enforcement authority;
- 22 ▶ describes the scope of law enforcement action as it relates to the federal
- 23 Assimilative Crimes Act, and proprietary jurisdiction federally managed land;
- 24 ▶ provides that state and local law enforcement officers may not recognize a federal
- 25 employee's exercise of law enforcement authority when the exercise is based on a
- 26 state or local law or ordinance;
- 27 ▶ authorizes state and local law enforcement to assist a federal agency or employee



28 under specified circumstances;

29 ▶ addresses federal authority on federally managed land regarding violation of a state
30 or local law in the case of an emergency;

31 ▶ prohibits a federal agency's use of state or local law enforcement correctional or
32 communication facilities without consent of the state or local law enforcement
33 agency;

34 ▶ provides procedures, requirements, and duration regarding entering into agreements
35 with federal employees to exercise law enforcement powers regarding state and
36 federal law; and

37 ▶ requires that county sheriffs regularly review the duties and activities of federal
38 agencies that have law enforcement responsibilities and are acting within the
39 jurisdictional area of a county.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 AMENDS:

46 **53-13-106**, as last amended by Laws of Utah 2013, First Special Session, Chapter 4

47 ENACTS:

48 **53-13-106.1**, Utah Code Annotated 1953

49 **53-13-106.2**, Utah Code Annotated 1953

50 **53-13-106.3**, Utah Code Annotated 1953

51 **53-13-106.4**, Utah Code Annotated 1953

52 **53-13-106.6**, Utah Code Annotated 1953

53 **53-13-106.7**, Utah Code Annotated 1953

54 **53-13-106.8**, Utah Code Annotated 1953

55 **53-13-106.9**, Utah Code Annotated 1953

56 **53-13-106.10**, Utah Code Annotated 1953



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

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

60 **53-13-106. Federal officers -- State law enforcement authority.**

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

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

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

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

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

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

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

69 and

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

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

74 (ii) ~~[Federal]~~ Subject to Sections [53-13-106.1](#) through [53-13-106.10](#), state and local
75 law enforcement officers are authorized to recognize the exercise of law enforcement authority
76 by federal agencies and federal employees ~~[may exercise law enforcement authority related to~~
77 ~~misdemeanor and felony offenses under Utah law only as established by an agreement]~~ as
78 defined in Section [53-13-106.1](#). This Subsection (1)(b)(ii) takes precedence over Subsection
79 (2).

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

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

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

86 (iii) maintain in-service training in accordance with the standards set forth in Section
87 [53-13-103](#).

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

90 enforcement authority only if:

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

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

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

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

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

103 Section 2. Section [53-13-106.1](#) is enacted to read:

104 **[53-13-106.1](#). State and local law enforcement officers and federal employees --**
105 **Definitions.**

106 As used in this section and in Sections [53-13-106.2](#) through [53-13-106.10](#):

107 (1) "Exercise law enforcement authority" and "exercise of law enforcement authority"
108 means:

109 (a) to take any action on private land, state-owned land, or federally managed land, to
110 investigate, stop, serve process, search, arrest, cite, book, or incarcerate a person for a federal,
111 state, or local criminal violation when the action is based on:

112 (i) a federal statute, regulation, or rule;

113 (ii) a state or local statute, ordinance, regulation, or rule; or

114 (iii) a state or local statute, ordinance, regulation, or rule that is being enforced by a
115 federal agency pursuant to the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

116 (b) to gain access to or use the correctional or communication facilities and equipment
117 of any state or local law enforcement agency.

118 (2) "Federal agency" means a federal agency that manages federally managed land or
119 regulates activities on that land, including:

120 (a) the United States Bureau of Land Management;

- 121 (b) the United States Forest Service;
- 122 (c) the National Park Service;
- 123 (d) the United States Fish and Wildlife Service;
- 124 (e) the United States Bureau of Reclamation;
- 125 (f) the United States Environmental Protection Agency; and
- 126 (g) the United States Army Corps of Engineers.

127 (3) "Federal employee" means an employee or other agent of a federal agency, but does
 128 not include:

- 129 (a) a special agent of the Federal Bureau of Investigation;
- 130 (b) a special agent of the United States Secret Service;
- 131 (c) a special agent of the United States Department of Homeland Security, unless the
 132 employee is a customs inspector or detention removal officer;
- 133 (d) a special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
- 134 (e) a special agent of the United States Drug Enforcement Administration;
- 135 (f) a United States marshal, deputy marshal, or special deputy United States marshal; or
- 136 (g) a United States postal inspector of the United States Postal Inspection Service.

137 (4) "Federally managed land" means land managed by the following federal agencies:

- 138 (a) the United States Bureau of Land Management;
- 139 (b) the United States Forest Service;
- 140 (c) the National Park Service;
- 141 (d) the United States Fish and Wildlife Service; and
- 142 (e) the United States Bureau of Reclamation.

143 (5) "Proprietary jurisdiction federally managed land" means all federally managed land
 144 as defined in this section except:

145 (a) buildings, installations, and other structures under the exclusive jurisdiction of the
 146 Congress of the United States pursuant to the United States Constitution, Article I, Section 8,
 147 Clause 17; and

148 (b) parcels that constitute federal enclaves subject to the concurrent jurisdiction of the
 149 United States and the state of Utah.

150 Section 3. Section **53-13-106.2** is enacted to read:

151 **53-13-106.2. State and local law enforcement officers and federal employees --**

152 **Exercise of federal law enforcement authority when based on a federal enactment.**

153 Subject to Sections 53-13-106.6, 53-13-106.7, and 53-13-106.9:

154 (1) State and local law enforcement officers are authorized to recognize a federal
155 employee's exercise of law enforcement authority, either on or off federally managed land, only
156 when the exercise is consistent with the Constitution of the United States and based on:

157 (a) a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

158 (b) a federal regulation that is authorized by a federal statute other than the
159 Assimilative Crimes Act, 18 U.S.C. Sec. 13.

160 (2) Notwithstanding Subsection 53-13-106.2(1), state and local law enforcement
161 officers are authorized to recognize a federal employee's exercise of law enforcement authority,
162 on federally managed land other than proprietary jurisdiction federally managed land, only
163 when the exercise is consistent with the Constitution of the United States and based on:

164 (a) a federal statute, including the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

165 (b) a federal regulation that is authorized by a federal statute including the Assimilative
166 Crimes Act, 18 U.S.C. Sec. 13.

167 Section 4. Section 53-13-106.3 is enacted to read:

168 **53-13-106.3. State and local law enforcement officers and federal employees --**
169 **Exercise of federal law enforcement authority when based on a state or local enactment.**

170 Subject to Sections 53-13-106.7 and 53-13-106.9, state and local law enforcement
171 officers are not authorized to recognize a federal employee's exercise of law enforcement
172 authority, either on or off federally managed land, when the exercise is based on a state or local
173 statute, ordinance, regulation, or rule.

174 Section 5. Section 53-13-106.4 is enacted to read:

175 **53-13-106.4. State and local law enforcement officers and federal employees --**
176 **Enforcement of federal laws and regulations by state and local officers.**

177 A state or local law enforcement agency is authorized to assist a federal agency or
178 federal employee to enforce federal statutes and regulations on lands managed pursuant to 43
179 U.S.C. Secs. 1701-1736 and Secs. 1737-1782, Federal Land Policy Management Act, only
180 after:

181 (1) the United States secretary of the interior has achieved maximum feasible reliance
182 upon the state or local law enforcement officials in enforcing federal laws and regulations, as

183 required under 43 U.S.C. Sec. 1733(c)(1);

184 (2) the United States secretary of the interior has otherwise complied with the
185 requirement of 43 U.S.C. Sec. 1733(c)(1); and

186 (3) the state or local law enforcement agency has complied with Section [53-13-106.9](#).

187 Section 6. Section **53-13-106.6** is enacted to read:

188 **53-13-106.6. State and local law enforcement officers and federal employees --**

189 **Exercise of federal law enforcement authority to enforce the Federal Land Policy**

190 **Management Act.**

191 Notwithstanding Section [53-13-106.2](#), state and local law enforcement officers are
192 authorized to recognize a federal employee's exercise of law enforcement authority to enforce
193 the provisions of the Federal Land Policy Management Act on proprietary jurisdiction federally
194 managed land, only if such exercise is consistent with the Constitution of the United States and
195 based on:

196 (1) a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

197 (2) a federal regulation that is:

198 (a) authorized by a federal statute other than the Assimilative Crimes Act, 18 U.S.C.

199 Sec. 13; and

200 (b) necessary to implement the provisions of the Federal Land Policy Management Act
201 with respect to the management, use, and protection of the public lands, including the property
202 located on those lands, as provided in 43 U.S.C. Sec. 1733(a).

203 Section 7. Section **53-13-106.7** is enacted to read:

204 **53-13-106.7. State and local law enforcement officers and federal employees --**

205 **Exercise of federal law enforcement authority based on state law during emergency.**

206 Notwithstanding Section [53-13-106.3](#), state and local law enforcement officers are
207 authorized to recognize a federal employee's limited exercise of law enforcement authority on
208 federally managed land in cases of a violation of a state or local statute, ordinance, regulation,
209 or rule when:

210 (1) the offense is an emergency and poses an immediate risk of bodily injury or damage
211 to property;

212 (2) a state, county, or municipal law enforcement officer is not reasonably available to
213 take action;

214 (3) the action is within the scope of the employee's or official's law enforcement power;
215 and

216 (4) the federal employee turns the matter, as well as the custody of any detained
217 citizen, over to the state, county, or municipal law enforcement officer for further action as
218 soon as the officer becomes available.

219 Section 8. Section **53-13-106.8** is enacted to read:

220 **53-13-106.8. State and local law enforcement officers and federal employees -- Use**
221 **of correctional and communication facilities.**

222 State and local government agencies may not allow any federal agency access to or use
223 of the correctional and communication facilities and equipment of any state or local law
224 enforcement agency without the express written consent of the appropriate responsible official
225 of the state or local law enforcement agency.

226 Section 9. Section **53-13-106.9** is enacted to read:

227 **53-13-106.9. State and local law enforcement officers and federal employees --**
228 **Interagency agreements.**

229 Notwithstanding Section [53-13-106.3](#):

230 (1) Local law enforcement agencies may enter into agreements with federal agencies
231 granting limited authority to specific federal employees to exercise law enforcement powers to
232 enforce federal state and local laws, provided the agreements are limited to a term not to
233 exceed two years and the officers granted authority have completed a 20-hour course focusing
234 on Utah law and process approved by the director of the Peace Officer Standards and Training
235 Division.

236 (2) State law enforcement agencies may, with the consent of the local county sheriff,
237 enter into agreements as described in Subsection (1), provided that the agreements may not
238 exceed a duration of two years.

239 Section 10. Section **53-13-106.10** is enacted to read:

240 **53-13-106.10. State and local law enforcement officers and federal employees --**
241 **Review by county sheriffs.**

242 County sheriffs shall regularly review the duties and activities of federal agencies that
243 have law enforcement responsibilities and that are acting within the jurisdictional area of the
244 county to determine if the federal agencies are acting consistently with this section.

Legislative Review Note
as of 2-18-14 5:04 PM

Office of Legislative Research and General Counsel