

Representative A. Cory Maloy proposes the following substitute bill:

FIREARM PREEMPTION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Michael S. Kennedy

Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill clarifies that the Legislature has preempted the field of firearm regulation for the state.

Highlighted Provisions:

This bill:

- ▶ creates the Firearms Preemption Enforcement Act;
- ▶ clarifies preemption of the field of firearms regulation;
- ▶ defines terms;
- ▶ outlines violations of legislative preemption;
- ▶ provides for civil action for a violation of legislative preemption;
- ▶ outlines remedies for violating legislative preemption;
- ▶ addresses governmental immunity;
- ▶ provides that Utah will not enforce certain federal firearm regulations; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53-5a-102**, as last amended by Laws of Utah 2013, Chapter 278

30 **63G-7-301**, as last amended by Laws of Utah 2020, Chapters 288, 338, and 365

31 **76-10-500**, as enacted by Laws of Utah 1999, Chapter 5

32 **76-10-501**, as last amended by Laws of Utah 2015, Chapters 212 and 406

33 ENACTS:

34 **53-5a-102.1**, Utah Code Annotated 1953

35 **53-5a-103.5**, Utah Code Annotated 1953

36 **78B-6-2201**, Utah Code Annotated 1953

37 **78B-6-2202**, Utah Code Annotated 1953

38 **78B-6-2203**, Utah Code Annotated 1953

39 **78B-6-2204**, Utah Code Annotated 1953



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

42 Section 1. Section **53-5a-102** is amended to read:

43 **53-5a-102. Uniform firearm laws.**

44 (1) In addition to the definitions in Section 76-10-501, "local authority" and "state
45 agency" mean the same as those terms are defined in Section 78B-6-2202.

46 (2) The individual right to keep and bear arms being a constitutionally protected right
47 under Article I, Section 6 of the Utah Constitution and the Second Amendment to the United
48 States Constitution, the Legislature finds the need to provide uniform civil and criminal firearm
49 laws throughout the state and declares that the Legislature occupies the whole field of state
50 regulation of firearms and ammunition.

51 [~~2~~] (3) Except as specifically provided by state law, a local authority or state entity
52 may not:

53 (a) prohibit an individual from owning, possessing, purchasing, selling, transferring,
54 transporting, or keeping a firearm at the individual's place of residence, property, business, or
55 in any vehicle lawfully in the individual's possession or lawfully under the individual's control;

56 or

57 (b) require an individual to have a permit or license to purchase, own, possess,
58 transport, or keep a firearm, ammunition, or firearm accessory.

59 ~~[(3)]~~ (4) In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is
60 uniformly applicable throughout this state and in all ~~[its]~~ the state's political subdivisions ~~[and~~
61 municipalities].

62 ~~[(4)]~~ (5) ~~[All authority]~~ Authority to regulate firearms is reserved to the state except
63 where the Legislature specifically delegates responsibility to a local ~~[authorities]~~ authority or
64 state ~~[entities]~~ agency.

65 ~~[(5)]~~ (6) Unless specifically authorized by the Legislature by statute, a local authority
66 or state ~~[entity]~~ agency, including organizations or vendors that contract with a local authority
67 or state agency, may not enact, establish, or enforce any ordinance, regulation, rule, or policy
68 pertaining to firearms that in any way inhibits or restricts the possession, transfer, or use of
69 firearms on either public or private property.

70 ~~[(6) As used in this section:]~~

71 ~~[(a) "firearm" has the same meaning as defined in Section 76-10-501; and]~~

72 ~~[(b) "local authority or state entity" includes public school districts, public schools, and~~
73 ~~state institutions of higher education.]~~

74 (7) Nothing in this section restricts or expands private property rights.

75 Section 2. Section **53-5a-102.1** is enacted to read:

76 **53-5a-102.1. Certain federal firearm laws not enforced -- Enforcement -- Penalty.**

77 (1) The definitions in Sections 76-10-501 and 78B-6-2203 apply to this section.

78 (2) A state agency, local authority, or local education agency may not adopt a rule,
79 order, ordinance, or policy under which the entity enforces, or by consistent action allows the
80 enforcement of, a federal statute, order, rule, or regulation enacted on or after January 1, 2021,
81 that purports to regulate a firearm, a firearm accessory, or firearm ammunition if the statute,
82 order, rule, or regulation imposes a prohibition, restriction, or other regulation that does not
83 exist under the laws of this state as of May 5, 2021.

84 (3) An entity described by Subsection (2) and any person employed by or otherwise
85 under the direction or control of the entity may not enforce or attempt to enforce any federal
86 statute, order, rule, or regulation described by Subsection (2).

87 (4) An entity described in Subsection (2) may not receive state grant funds if the entity
88 adopts a rule, order, ordinance, or policy under which the entity enforces any federal law
89 described by Subsection (2) or, by consistent actions, allows the enforcement of any federal law
90 described by Subsection (2). State grant funds for the entity shall be denied for the fiscal year
91 following the year in which a final judicial determination in an action brought under this
92 section is made that the entity has violated Subsection (2).

93 (5) Any individual residing in the jurisdiction of an entity described by Subsection (2)
94 may file a complaint with the attorney general if the individual offers evidence to support an
95 allegation that the entity has adopted a rule, order, ordinance, or policy under which the entity
96 enforces a federal law described by Subsection (2) or that the entity, by consistent actions,
97 allows the enforcement of a law described by Subsection (2). The individual shall include with
98 the complaint any evidence the individual has in support of the complaint.

99 (6) The attorney general shall create a process to determine the validity of complaints
100 under this Section and enforce compliance, including bringing suit against the entity in
101 violation. The attorney general may recover reasonable expenses incurred in investigating
102 violations of this subsection, including court costs, reasonable attorney's fees, investigative
103 costs, witness fees, and deposition costs.

104 (7) The attorney general shall notify the individual and the entity of the results of any
105 inquiry under Subsection (6). The individual may bring an action under Title 78B, Chapter 6,
106 Firearm Preemption Enforcement Act, if the attorney general determines that the entity may
107 have violated this section.

108 (8) An appeal of a suit brought under Subsection (6) is governed by the procedures for
109 expedited appeals in civil cases under the Utah Rules of Appellate Procedure. The appellate
110 court shall render its final order or judgment with the least possible delay.

111 Section 3. Section **53-5a-103.5** is enacted to read:

112 **53-5a-103.5. Homeless shelters.**

113 (1) As used in this section, "homeless shelter" means a facility that provides temporary
114 shelter to homeless individuals and has the capacity to provide temporary shelter to at least 20
115 individuals per night.

116 (2) A local government entity may prohibit the possession of firearms within a
117 homeless shelter over which it exercises authority.

118 Section 4. Section **63G-7-301** is amended to read:

119 **63G-7-301. Waivers of immunity.**

120 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual
121 obligation.

122 (b) Actions arising out of contractual rights or obligations are not subject to the
123 requirements of Section **63G-7-401**, **63G-7-402**, **63G-7-403**, or **63G-7-601**.

124 (c) The Division of Water Resources is not liable for failure to deliver water from a
125 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development
126 Act, if the failure to deliver the contractual amount of water is due to drought, other natural
127 condition, or safety condition that causes a deficiency in the amount of available water.

128 (2) Immunity from suit of each governmental entity is waived:

129 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
130 personal property;

131 (b) as to any action brought to foreclose mortgages or other liens on real or personal
132 property, to determine any adverse claim on real or personal property, or to obtain an
133 adjudication about any mortgage or other lien that the governmental entity may have or claim
134 on real or personal property;

135 (c) as to any action based on the negligent destruction, damage, or loss of goods,
136 merchandise, or other property while it is in the possession of any governmental entity or
137 employee, if the property was seized for the purpose of forfeiture under any provision of state
138 law;

139 (d) subject to Subsection **63G-7-302**(1), as to any action brought under the authority of
140 Utah Constitution, Article I, Section 22, for the recovery of compensation from the
141 governmental entity when the governmental entity has taken or damaged private property for
142 public uses without just compensation;

143 (e) subject to Subsection **63G-7-302**(2), as to any action brought to recover attorney
144 fees under Sections **63G-2-405** and **63G-2-802**;

145 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
146 Act;

147 (g) as to any action brought to obtain relief from a land use regulation that imposes a
148 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious

149 Land Use Act;

150 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

151 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
152 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

153 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,
154 or other public improvement;

155 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury
156 proximately caused by a negligent act or omission of an employee committed within the scope
157 of employment; and

158 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from
159 a sexual battery, as provided in Section 76-9-702.1, committed:

160 (i) against a student of a public elementary or secondary school, including a charter
161 school; and

162 (ii) by an employee of a public elementary or secondary school or charter school who:

163 (A) at the time of the sexual battery, held a position of special trust, as defined in
164 Section 76-5-404.1, with respect to the student;

165 (B) is criminally charged in connection with the sexual battery; and

166 (C) the public elementary or secondary school or charter school knew or in the exercise
167 of reasonable care should have known, at the time of the employee's hiring, to be a sex
168 offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex
169 and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a
170 background check under Section 53G-11-402.

171 (3) (a) As used in this Subsection (3):

172 (i) "Code of conduct" means a code of conduct that:

173 (A) is not less stringent than a model code of conduct, created by the State Board of
174 Education, establishing a professional standard of care for preventing the conduct described in
175 Subsection (3)(a)(i)(D);

176 (B) is adopted by the applicable local education governing body;

177 (C) regulates behavior of a school employee toward a student; and

178 (D) includes a prohibition against any sexual conduct between an employee and a
179 student and against the employee and student sharing any sexually explicit or lewd

180 communication, image, or photograph.

181 (ii) "Local education agency" means:

182 (A) a school district;

183 (B) a charter school; or

184 (C) the Utah Schools for the Deaf and the Blind.

185 (iii) "Local education governing board" means:

186 (A) for a school district, the local school board;

187 (B) for a charter school, the charter school governing board; or

188 (C) for the Utah Schools for the Deaf and the Blind, the state board.

189 (iv) "Public school" means a public elementary or secondary school.

190 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

191 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
192 the term "child" in that section to include an individual under age 18.

193 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
194 claim against a local education agency for an injury resulting from a sexual battery or sexual
195 abuse committed against a student of a public school by a paid employee of the public school
196 who is criminally charged in connection with the sexual battery or sexual abuse, unless:

197 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
198 code of conduct; and

199 (ii) before the sexual battery or sexual abuse occurred, the public school had:

200 (A) provided training on the code of conduct to the employee; and

201 (B) required the employee to sign a statement acknowledging that the employee has
202 read and understands the code of conduct.

203 (4) (a) As used in this Subsection (4):

204 (i) "Higher education institution" means an institution included within the state system
205 of higher education under Section 53B-1-102.

206 (ii) "Policy governing behavior" means a policy adopted by a higher education
207 institution or the Utah Board of Higher Education that:

208 (A) establishes a professional standard of care for preventing the conduct described in
209 Subsections (4)(a)(ii)(C) and (D);

210 (B) regulates behavior of a special trust employee toward a subordinate student;

211 (C) includes a prohibition against any sexual conduct between a special trust employee
212 and a subordinate student; and

213 (D) includes a prohibition against a special trust employee and subordinate student
214 sharing any sexually explicit or lewd communication, image, or photograph.

215 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.

216 (iv) "Special trust employee" means an employee of a higher education institution who
217 is in a position of special trust, as defined in Section 76-5-404.1, with a higher education
218 student.

219 (v) "Subordinate student" means a student:

220 (A) of a higher education institution; and

221 (B) whose educational opportunities could be adversely impacted by a special trust
222 employee.

223 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
224 claim for an injury resulting from a sexual battery committed against a subordinate student by a
225 special trust employee, unless:

226 (i) the institution proves that the special trust employee's behavior that otherwise would
227 constitute a sexual battery was:

228 (A) with a subordinate student who was at least 18 years old at the time of the
229 behavior; and

230 (B) with the student's consent; or

231 (ii) (A) at the time of the sexual battery, the higher education institution was subject to
232 a policy governing behavior; and

233 (B) before the sexual battery occurred, the higher education institution had taken steps
234 to implement and enforce the policy governing behavior.

235 (5) Immunity from suit of each governmental entity and the governmental entity's
236 employees or agents is waived with respect to the provisions of Title 78B, Chapter 6, Part 22,
237 Firearms Preemption Enforcement Act.

238 Section 5. Section 76-10-500 is amended to read:

239 **76-10-500. Uniform law.**

240 (1) The individual right to keep and bear arms being a constitutionally protected right
241 under Article I, Section 6 of the Utah Constitution and the Second Amendment to the United

242 States Constitution, the Legislature finds the need to provide uniform civil and criminal laws
 243 throughout the state and declares that the Legislature occupies the whole field of state
 244 regulation of firearms and ammunition.

245 (2) Except as specifically provided by state law, [~~a citizen of the United States or a~~
 246 ~~lawfully admitted alien shall not be~~] a local authority or state agency may not:

247 (a) [~~prohibited~~] prohibit an individual from owning, possessing, purchasing, selling,
 248 transferring, transporting, or keeping any firearm [~~at his~~], ammunition, or firearm accessory at
 249 the individual's place of residence, property, business, or in any vehicle lawfully in [his] the
 250 individual's possession or lawfully under [his] the individual's control; or

251 (b) [~~required~~] require an individual to have a permit or license to purchase, own,
 252 possess, transport, or keep a firearm, ammunition, or firearm accessory.

253 [~~(2)~~] (3) This part is uniformly applicable throughout this state and in all [its] the state's
 254 political subdivisions [and municipalities].

255 (4) [~~All authority~~] Authority to regulate firearms [~~shall be~~] is reserved to the state
 256 except where the Legislature specifically delegates responsibility to a local [authorities]
 257 authority or state [entities] agency.

258 (5) Unless specifically authorized by the Legislature by statute, a local authority or
 259 state [~~entity~~] agency may not enact or enforce any ordinance, regulation, [~~or~~] rule, or policy
 260 pertaining to firearms that in any way inhibits or restricts the possession or use of firearms,
 261 ammunition, or a firearm accessory on either public or private property.

262 (6) Nothing in this part restricts or expands private property rights.

263 Section 6. Section **76-10-501** is amended to read:

264 **76-10-501. Definitions.**

265 As used in this part:

266 (1) (a) "Antique firearm" means:

267 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or
 268 similar type of ignition system, manufactured in or before 1898; or

269 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the
 270 replica:

271 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
 272 ammunition; or

273 (B) uses rimfire or centerfire fixed ammunition which is:
274 (I) no longer manufactured in the United States; and
275 (II) is not readily available in ordinary channels of commercial trade; or
276 (iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and
277 (B) is designed to use black powder, or a black powder substitute, and cannot use fixed
278 ammunition.

279 (b) "Antique firearm" does not include:
280 (i) a weapon that incorporates a firearm frame or receiver;
281 (ii) a firearm that is converted into a muzzle loading weapon; or
282 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by

283 replacing the:

284 (A) barrel;
285 (B) bolt;
286 (C) breechblock; or
287 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

288 (2) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
289 within the Department of Public Safety.

290 (3) (a) "Concealed firearm" means a firearm that is:

291 (i) covered, hidden, or secreted in a manner that the public would not be aware of its
292 presence; and

293 (ii) readily accessible for immediate use.

294 (b) A firearm that is unloaded and securely encased is not a concealed firearm for the
295 purposes of this part.

296 (4) "Criminal history background check" means a criminal background check
297 conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal
298 Firearms Licensee, through the bureau or the local law enforcement agency where the firearms
299 dealer conducts business.

300 (5) "Curio or relic firearm" means a firearm that:

301 (a) is of special interest to a collector because of a quality that is not associated with
302 firearms intended for:

303 (i) sporting use;

- 304 (ii) use as an offensive weapon; or
305 (iii) use as a defensive weapon;
306 (b) (i) was manufactured at least 50 years before the current date; and
307 (ii) is not a replica of a firearm described in Subsection (5)(b)(i);
308 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
309 firearms to be a curio or relic of museum interest;
310 (d) derives a substantial part of its monetary value:
311 (i) from the fact that the firearm is:
312 (A) novel;
313 (B) rare; or
314 (C) bizarre; or
315 (ii) because of the firearm's association with an historical:
316 (A) figure;
317 (B) period; or
318 (C) event; and
319 (e) has been designated as a curio or relic firearm by the director of the United States
320 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.
321 (6) (a) "Dangerous weapon" means:
322 (i) a firearm; or
323 (ii) an object that in the manner of its use or intended use is capable of causing death or
324 serious bodily injury.
325 (b) The following factors are used in determining whether any object, other than a
326 firearm, is a dangerous weapon:
327 (i) the location and circumstances in which the object was used or possessed;
328 (ii) the primary purpose for which the object was made;
329 (iii) the character of the wound, if any, produced by the object's unlawful use;
330 (iv) the manner in which the object was unlawfully used;
331 (v) whether the manner in which the object is used or possessed constitutes a potential
332 imminent threat to public safety; and
333 (vi) the lawful purposes for which the object may be used.
334 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device

335 as defined by Section [76-10-306](#).

336 (7) "Dealer" means a person who is:

337 (a) licensed under 18 U.S.C. Sec. 923; and

338 (b) engaged in the business of selling, leasing, or otherwise transferring a handgun,

339 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

340 (8) "Enter" means intrusion of the entire body.

341 (9) "Federal Firearms Licensee" means a person who:

342 (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

343 (b) is engaged in the activities authorized by the specific category of license held.

344 (10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or

345 short barreled rifle, or a device that could be used as a dangerous weapon from which is

346 expelled a projectile by action of an explosive.

347 (b) As used in Sections [76-10-526](#) and [76-10-527](#), "firearm" does not include an
348 antique firearm.

349 (11) "Firearms transaction record form" means a form created by the bureau to be
350 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

351 (12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can
352 be readily restored to fire, automatically more than one shot without manual reloading by a
353 single function of the trigger.

354 (13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded
355 or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which,
356 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

357 (b) As used in Sections [76-10-520](#), [76-10-521](#), and [76-10-522](#), "handgun" and "pistol
358 or revolver" do not include an antique firearm.

359 (14) "House of worship" means a church, temple, synagogue, mosque, or other
360 building set apart primarily for the purpose of worship in which religious services are held and
361 the main body of which is kept for that use and not put to any other use inconsistent with its
362 primary purpose.

363 (15) "Local authority" means the same as that term is defined in Section [78B-6-2202](#).

364 [~~(15)~~] (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

365 [~~(16)~~] (17) "Readily accessible for immediate use" means that a firearm or other

366 dangerous weapon is carried on the person or within such close proximity and in such a manner
367 that it can be retrieved and used as readily as if carried on the person.

368 ~~[(17)]~~ (18) "Residence" means an improvement to real property used or occupied as a
369 primary or secondary residence.

370 ~~[(18)]~~ (19) "Securely encased" means not readily accessible for immediate use, such as
371 held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
372 storage area of a motor vehicle, not including a glove box or console box.

373 ~~[(19)]~~ (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a
374 barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or
375 barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun
376 by alteration, modification, or otherwise, if the weapon as modified has an overall length of
377 fewer than 26 inches.

378 ~~[(20)]~~ (21) "Shotgun" means a smooth bore firearm designed to fire cartridges
379 containing pellets or a single slug.

380 ~~[(21)]~~ (22) "Shoulder arm" means a firearm that is designed to be fired while braced
381 against the shoulder.

382 ~~[(22)]~~ (23) "Slug" means a single projectile discharged from a shotgun shell.

383 ~~[(23)]~~ (24) "State agency" or "entity" means a department, commission, board, council,
384 agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory,
385 library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board
386 of Higher Education, each institution of higher education, and the boards of trustees of each
387 higher education institution.

388 ~~[(24)]~~ (25) "Violent felony" means the same as that term is defined in Section
389 [76-3-203.5](#).

390 Section 7. Section **78B-6-2201** is enacted to read:

391 **Part 22. Firearm Preemption Enforcement Act**

392 **78B-6-2201. Firearm Preemption Enforcement Act.**

393 This part is known as the "Firearm Preemption Enforcement Act."

394 Section 8. Section **78B-6-2202** is enacted to read:

395 **78B-6-2202. Definitions.**

396 As used in this part:

397 (1) "Ammunition" means a bullet, cartridge case, primer, propellant powder, or other
398 ammunition designed for use in any firearm, either as an individual component part or in a
399 completely assembled cartridge.

400 (2) "Firearm" means the same as that term is defined in Section [76-10-501](#).

401 (3) "Firearm accessory" means an item that is legal to use in conjunction with or
402 mounted upon a firearm, firearm action, or firearm receiver, but is not essential to the basic
403 function of a firearm.

404 (4) "Legislative preemption" means the preemption provided for in Sections [53-5a-102](#)
405 and [76-10-500](#).

406 (5) "Local authority" means a county, city, town, metro township, local district, local
407 education agency, public school, special service district under Title 17D, Chapter 1, Special
408 Service District Act, an entity created by interlocal cooperation agreement under Title 11,
409 Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute
410 as a political subdivision of the state.

411 (6) "Local education agency" means a school district or charter school.

412 (7) "State agency" means the same as that term is defined in Section [76-10-501](#).

413 Section 9. Section **78B-6-2203** is enacted to read:

414 **78B-6-2203. Violation of legislative preemption -- Exceptions.**

415 (1) A local authority or state agency that enacts or enforces an ordinance, regulation,
416 measure, directive, rule, enactment, order, or policy that violates legislative preemption is
417 liable as provided in this part.

418 (2) An ordinance, regulation, measure, directive, rule, enactment, order, or policy that
419 violates legislative preemption is void.

420 (3) This part does not prohibit:

421 (a) a law enforcement agency from enacting and enforcing regulations pertaining to
422 firearms, ammunition, or firearm accessories issued to or used by a peace officer in the course
423 of the peace officer's official duties;

424 (b) a court or administrative law judge from hearing and resolving any case or
425 controversy or issuing any opinion or order on a matter consistent with state law within the
426 jurisdiction of that court or administrative law judge;

427 (c) a rule of a correctional facility or mental or behavioral health facility under Section

428 [76-8-311.3](#);

429 (d) a rule of judicial administration establishing a secure courthouse;

430 (e) a rule of the State Tax Commission establishing a secure area within a State Tax
431 Commission facility; or

432 (f) a local authority or state agency from enacting or enforcing an ordinance,
433 regulation, measure, directive, rule, enactment, order, or policy developed in response to and in
434 accordance with legislative authority.

435 Section 10. Section **78B-6-2204** is enacted to read:

436 **78B-6-2204. Civil action -- Injunction.**

437 (1) An individual who is harmed by a local authority or state agency that makes or
438 causes to be enforced an ordinance, regulation, measure, directive, rule, enactment, order, or
439 policy in violation of legislative preemption may:

440 (a) request that the local authority rescind or repeal the ordinance, regulation, measure,
441 directive, rule, enactment, order, or policy; or

442 (b) if the local authority declines to rescind or repeal the ordinance, regulation,
443 measure, directive, rule, enactment, order, or policy, file suit against the local authority or state
444 agency in any court of this state having jurisdiction over the local authority or state agency.

445 (2) If the court determines that a local authority or state agency violated legislative
446 preemption, the court shall:

447 (a) order that the relevant ordinance, regulation, measure, directive, rule, enactment,
448 order, or policy is void;

449 (b) prohibit the local authority or state agency from enforcing the void ordinance,
450 regulation, measure, directive, rule, enactment, order, or policy; and

451 (c) award to the prevailing party:

452 (i) actual damages, which includes the cost of time in bringing the civil action, or
453 defending against the action;

454 (ii) reasonable attorney fees and costs in accordance with the laws of this state; and

455 (iii) interest on the sums awarded pursuant to this Subsection (2) accrued at the legal
456 rate from the date on which the suit is filed.

457 (3) In accordance with Subsection [63G-7-301\(5\)](#), a state agency or local authority that
458 violates this part is not immune from suit or liability for the violation.