

CAMPUS SAFETY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Criminal Code by amending provisions relating to persons interfering or trespassing on property owned by an institution of higher education.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that a chief administrative officer may order a person to leave property that is owned, operated, or controlled by an institution of higher education if the person:
 - acts or intends to do certain things; or
 - is reckless as to whether the person's actions will cause fear for the safety of another;
- ▶ provides that a person is guilty of criminal trespass upon an institution of higher education if the person:
 - enters or remains on property that is owned, operated, or controlled by an institution of higher education after being ordered to leave; or
 - enters or remains without authorization upon property that is owned, operated, or controlled by an institution of higher education if notice against entry or remaining has been given;
- ▶ provides that the mere carrying or possession of a firearm does not warrant an order to leave;
- ▶ repeals certain provisions relating to interfering or intending to interfere with campus activities, violating rules and regulations of the institution, and failing to

30 leave when ordered; and

31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **76-8-701**, as last amended by Laws of Utah 2010, Chapter 211

39 **76-8-702**, as enacted by Laws of Utah 1973, Chapter 196

40 **76-8-705**, as enacted by Laws of Utah 1973, Chapter 196

41 **76-8-709**, as enacted by Laws of Utah 1973, Chapter 196

42 **76-8-717**, as enacted by Laws of Utah 1973, Chapter 196

43 REPEALS AND REENACTS:

44 **76-8-703**, as enacted by Laws of Utah 1973, Chapter 196

45 REPEALS:

46 **76-8-704**, as enacted by Laws of Utah 1973, Chapter 196

47 **76-8-708**, as enacted by Laws of Utah 1973, Chapter 196

48 **76-8-710**, as enacted by Laws of Utah 1973, Chapter 196

49 **76-8-711**, as enacted by Laws of Utah 1973, Chapter 196

50 **76-8-712**, as enacted by Laws of Utah 1973, Chapter 196

51 **76-8-713**, as enacted by Laws of Utah 1973, Chapter 196

52 **76-8-718**, as enacted by Laws of Utah 1973, Chapter 196

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

55 Section 1. Section **76-8-701** is amended to read:

56 **76-8-701. Definitions.**

57 For the purposes of this part:

58 (1) "Chief administrative officer" means the president of [~~a private or state~~] an
 59 institution of higher education or [~~the officer~~] a person designated by the president [~~or by the~~
 60 governing board of the institution to administer the affairs of a campus or other facility owned
 61 by the institution or operated or controlled by the governing board of the institution].

62 [~~(2) "School" or "institution of higher education" means any private institution of~~
 63 higher education or any state institution of higher education as defined in Section 53B-1-102.]

64 [~~(3) "State institution of higher education" includes the University of Utah, Utah State~~
 65 University, Southern Utah University, Weber State University, Snow College, Dixie State
 66 College of Utah, Utah Valley University, Salt Lake Community College, and any other
 67 university or college which may be established and maintained by the state, and includes any
 68 branch or affiliated institution and any campus or facility owned, operated, or controlled by the
 69 governing board of the university or college.]

70 (2) "Enter" means intrusion of the entire body.

71 (3) "Institution" or "institution of higher education" means:

72 (a) a state institution of higher education as defined in Section 53B-3-102; or

73 (b) a private institution of higher education in the state accredited by a regional or
 74 national accrediting agency recognized by the United States Department of Education.

75 Section 2. Section **76-8-702** is amended to read:

76 **76-8-702. Purpose.**

77 It is the purpose of this part to:

78 (1) supplement and clarify the power vested in the governing board of each [~~private or~~
 79 state] institution of higher education; and [~~to~~]

80 (2) regulate, conduct, and enforce law and order on property owned, operated, or
 81 controlled by [~~it~~] each institution of higher education.

82 Section 3. Section **76-8-703** is repealed and reenacted to read:

83 **76-8-703. Criminal trespass upon an institution of higher education.**

84 (1) (a) A chief administrative officer may order a person to leave property that is
 85 owned, operated, or controlled by an institution of higher education if the person:

86 (i) acts or if the chief administrative officer has reasonable cause to believe that the
87 person intends to act to:

88 (A) cause injury to a person;

89 (B) cause damage to property;

90 (C) commit a crime;

91 (D) interfere with the peaceful conduct of the activities of the institution;

92 (E) violate any rule or regulation of the institution if that rule or regulation is not in
93 conflict with state law; or

94 (F) disrupt the institution, its pupils, or the institution's activities; or

95 (ii) is reckless as to whether the person's actions will cause fear for the safety of
96 another.

97 (b) A person is guilty of criminal trespass upon an institution of higher education if the
98 person enters or remains on property that is owned, operated, or controlled by an institution of
99 higher education after being ordered to leave under Subsection (1)(a).

100 (c) The mere carrying or possession of a firearm on the campus of a state institution of
101 higher education, as defined in Section 53B-3-102, does not warrant an order to leave under
102 Subsection (1)(a) if the person carrying or possessing the firearm is otherwise complying with
103 all state laws regulating the possession and use of a firearm.

104 (2) A person is guilty of criminal trespass upon an institution of higher education if the
105 person enters or remains without authorization upon property that is owned, operated, or
106 controlled by an institution of higher education if notice against entry or remaining has been
107 given by:

108 (a) personal communication to the person by the chief administrative officer or a
109 person with apparent authority to act for the institution;

110 (b) the posting of signs reasonably likely to come to the attention of trespassers;

111 (c) fencing or other enclosure obviously designed to exclude trespassers; or

112 (d) a current order of suspension or expulsion.

113 (3) If an employee or student of an institution of higher education is ordered to leave

114 under Subsection (1) or receives a notice against entry or remaining under Subsection (2), the
115 institution of higher education shall afford the employee or student the process required by the
116 institution of higher education's rules and regulations.

117 (4) A person who violates this section shall be punished as provided in Section
118 76-8-717.

119 Section 4. Section **76-8-705** is amended to read:

120 **76-8-705. Willful interference with lawful activities of students or faculty.**

121 ~~[(1) If any person on the campus of a private or state institution of higher education or~~
122 ~~upon any other facility owned or controlled by the governing board of the institution, willfully]~~

123 A person is guilty of a class C misdemeanor if, on property that is owned, operated, or
124 controlled by an institution of higher education, the person willfully:

125 (1) denies to [students, school officials, employees, or invitees] a student, school
126 official, employee, or invitee lawful:

127 (a) ~~[Lawful]~~ freedom of movement[;];

128 (b) ~~[Lawful]~~ use of the property or facilities[;]; or

129 (c) ~~[Lawful]~~ ingress or egress to the institution's physical facilities[~~, that person is~~
130 ~~guilty of a class C misdemeanor.];~~

131 ~~[(2) If any person upon the campus of a private or state institution of higher education~~
132 ~~or upon any other facility owned or controlled by the governing board of the institution,~~
133 ~~willfully]~~

134 (2) impedes [the faculty or staff] a faculty or staff member of the institution in the
135 lawful performance of [their] the member's duties[;]; or [willfully]

136 (3) impedes a student of the institution in the lawful pursuit of [his] the student's
137 educational activities[~~, that person is guilty of a class C misdemeanor].~~

138 Section 5. Section **76-8-709** is amended to read:

139 **76-8-709. Enforcement of laws by local agencies not limited.**

140 Nothing in this [act] part shall limit:

141 (1) the right or duty of any local law enforcement agency to enforce the law which it

142 had prior to this enactment~~[-]; or~~

143 (2) the right of any state or local law enforcement agency to enforce the laws of this
144 state.

145 Section 6. Section **76-8-717** is amended to read:

146 **76-8-717. Violations -- Classifications of offenses.**

147 ~~[Any student or employee]~~ Except as otherwise provided, a person found guilty of a
148 violation of ~~[those sections which specify this section as prescribing the punishment]~~ this part
149 shall be punished as follows:

150 (1) ~~[Upon]~~ upon the first and second conviction, ~~[shall be punished as]~~ the person is
151 guilty of a class B misdemeanor~~[-]; or~~

152 (2) ~~[If the defendant has]~~ if the person has previously been convicted two or more
153 times of a violation of ~~[any offense specified punishable under this section, he shall be~~
154 ~~punished for]~~ this part, the person is guilty of a class A misdemeanor.

155 Section 7. **Repealer.**

156 This bill repeals:

157 Section **76-8-704, Violation of rule or regulation of institution -- Failure to leave**
158 **when ordered.**

159 Section **76-8-708, Enforcement of rules or regulations of institutions -- Privilege of**
160 **information acquired in proceedings.**

161 Section **76-8-710, Disruption of activities in or near school building -- Failure to**
162 **leave or re-entry.**

163 Section **76-8-711, Withdrawal of consent to remain on campus or facility -- Report**
164 **and confirmation of action -- Reinstatement -- Hearing -- Re-entry -- Powers of**
165 **suspension, dismissal or expulsion not affected.**

166 Section **76-8-712, Re-entry of campus or facility after denial of access as condition**
167 **of suspension or dismissal -- Presumption of knowledge.**

168 Section **76-8-713, Person not a student, officer or employee -- Re-entry of campus**
169 **or facility after direction to leave.**

170 Section **76-8-718, Enforcement rights of state or local law enforcement authority**
171 **not limited.**