

FIREARMS SAFE HARBOR

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dixon M. Pitcher

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts language authorizing a cohabitant to voluntarily commit a firearm to law enforcement for a limited period.

Highlighted Provisions:

This bill:

▶ enacts Title 53, Chapter 5c, Firearms Safe Harbor, including:

- enacting general provisions;
- enacting provisions authorizing a cohabitant who owns a firearm (owner cohabitant) to voluntarily commit the firearm to law enforcement for 60 days if the cohabitant believes another cohabitant is an immediate threat;
- enacting provisions requiring law enforcement to confiscate a firearm that is voluntarily committed if it is an illegal firearm;
- enacting provisions authorizing law enforcement to dispose of a firearm if the owner cohabitant does not claim a firearm; and
- enacting provisions allowing law enforcement to return the firearm to a person other than an owner cohabitant who claims ownership of the firearm.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

- 30 **53-5c-101**, Utah Code Annotated 1953
- 31 **53-5c-102**, Utah Code Annotated 1953
- 32 **53-5c-201**, Utah Code Annotated 1953
- 33 **53-5c-202**, Utah Code Annotated 1953

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

36 Section 1. Section **53-5c-101** is enacted to read:

37 **CHAPTER 5c. FIREARMS SAFE HARBOR**

38 **Part 1. General Provisions**

39 **53-5c-101. Title.**

40 This chapter is known as "Firearms Safe Harbor."

41 Section 2. Section **53-5c-102** is enacted to read:

42 **53-5c-102. Definitions.**

43 (1) "Cohabitant" means a person who is 21 years of age or older who resides in the
44 same residence as the other party.

45 (2) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short
46 barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a
47 projectile by action of an explosive.

48 (3) "Illegal firearm" means a firearm the ownership or possession of which is
49 prohibited under state or federal law.

50 (4) "Law enforcement agency" means a municipal or county police agency or an officer
51 of that agency.

52 (5) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a firearm.

53 (6) "Public interest use" means:

54 (a) use by a government agency as determined by the legislative body of the agency's
55 jurisdiction; or

56 (b) donation to a bona fide charity.

57 Section 3. Section **53-5c-201** is enacted to read:

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Part 2. Voluntary Commitment of Firearm

53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law enforcement to hold firearm.

(1) (a) An owner cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate threat to:

- (i) himself or herself;
- (ii) the owner cohabitant; or
- (iii) any other person.

(b) A law enforcement agency may not hold a firearm under this section if the law enforcement agency obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of his or her own free will, the firearm to the law enforcement agency at the agency's office.

(2) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

- (a) record:
 - (i) the owner cohabitant's name, address, and phone number;
 - (ii) the firearm serial number; and
 - (iii) the date that the firearm was voluntarily committed;

(b) require the owner cohabitant to sign a document attesting that the owner cohabitant has an ownership interest in the firearm;

(c) hold the firearm in safe custody for 60 days after the day on which it is voluntarily committed; and

(d) upon proof of identification, return the firearm to:

(i) the owner cohabitant after the expiration of the 60-day period or, if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) to an owner other than the owner cohabitant in accordance with Section 53-5c-202.

86 (3) The law enforcement agency shall hold the firearm for an additional 60 days:
87 (a) if the initial 60-day period expires; and
88 (b) the owner cohabitant requests that the law enforcement agency hold the firearm for
89 an additional 60 days.

90 (4) A law enforcement agency may not request or require that the owner cohabitant
91 provide the name or other information of the cohabitant who poses an immediate threat or any
92 other cohabitant.

93 (5) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
94 Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection
95 (2), Subsection 53-5c-202(4)(b)(iii), or any other record created in the application of this
96 chapter no later than five days after:

97 (a) returning a firearm in accordance with Subsection (2)(d); or

98 (b) appropriating, selling, or destroying the firearm in accordance with Section
99 53-5c-202.

100 (6) Unless otherwise provided, the provisions of Title 77, Chapter 24, Disposal of
101 Property Received by Peace Officer, do not apply to a firearm received by a law enforcement
102 agency in accordance with this chapter.

103 (7) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held
104 in accordance with this chapter.

105 Section 4. Section **53-5c-202** is enacted to read:

106 **53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

107 (1) If a law enforcement agency receives a firearm in accordance with Section
108 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:

109 (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the
110 firearm is an illegal firearm; and

111 (b) confiscate the firearm and dispose of it as the head of the law enforcement agency
112 determines.

113 (2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner

114 cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement
115 agency may:

- 116 (i) appropriate the firearm to public interest use as provided in Subsection (3);
- 117 (ii) sell the firearm at public auction as provided by law and appropriate the proceeds
118 of the sale to public interest use; or
- 119 (iii) destroy the firearm if unfit for sale.

120 (b) A law enforcement agency may take an action in accordance with Subsection (2)(a)
121 no earlier than one year after the day on which the owner cohabitant initially voluntarily
122 commits the firearm in accordance with Section 53-5c-201.

123 (3) Before appropriating the firearm to public interest use, the law enforcement agency,
124 having possession of the firearm, shall obtain from the legislative body of its jurisdiction:

- 125 (a) permission to appropriate the firearm to public interest use; and
- 126 (b) the designation and approval of the public interest use of the firearm.

127 (4) (a) If a person other than an owner cohabitant who voluntarily commits a firearm in
128 accordance with Section 53-5c-201 claims ownership of the firearm, the person may:

129 (i) request that the law enforcement agency return the firearm in accordance with
130 Subsection (4)(b); or

131 (ii) petition the court for the firearm's return in accordance with Subsection (4)(c).

132 (b) Except as provided in Section 53-5c-201, the law enforcement agency shall return a
133 firearm to a person other than an owner cohabitant who claims ownership of the firearm if:

- 134 (i) the 60-day period described in Section 53-5c-201 has expired;
- 135 (ii) the person provides identification; and
- 136 (iii) the person signs a document attesting that the person has an ownership interest in
137 the firearm.

138 (c) After sufficient notice is given to the prosecutor, the court may order that the
139 firearm be:

- 140 (i) returned to the rightful owner as determined by the court;
- 141 (ii) converted to public interest use; or

142 (iii) destroyed.

143 (d) A law enforcement agency shall return a firearm ordered returned to the rightful

144 owner as expeditiously as possible after a court determination.