

Representative Paul Ray proposes the following substitute bill:

FIREARMS REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill deals with provisions related to the possession of a firearm or dangerous weapon.

Highlighted Provisions:

This bill:

- provides that in the absence of additional threatening behavior, the otherwise lawful possession of a firearm or dangerous weapon, whether visible or concealed, may not be considered a violation of certain municipal ordinances;
- provides that governmental entities may not enact, maintain, or enforce firearm or dangerous weapon laws, ordinances, rules, or regulations without explicit authority granted by the Legislature;
- provides that where authority has been granted to a governmental entity by the Legislature to regulate firearms or other dangerous weapons, any law, ordinance, rule, regulation, code of conduct, or contractual obligation based on that grant shall reference the grant and detail the conduct that is limited or prohibited pursuant to the grant; and
- voids any firearm or dangerous weapon law, ordinance, rule, regulation, code of conduct, or contractual obligation that does not reference the applicable legislative



grant of authority and detail the conduct that is limited or prohibited pursuant to the grant.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-47, as last amended by Laws of Utah 1981, Chapter 50

10-8-50, as last amended by Laws of Utah 1995, Chapter 131

76-9-102, as last amended by Laws of Utah 1999, Chapter 20

ENACTS:

76-10-532, Utah Code Annotated 1953

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

Section 1. Section **10-8-47** is amended to read:

10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics or tobacco to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.

[~~They~~] (1) Except as provided in Section 76-10-532, the municipal legislative body may;

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny; [~~they may~~]

(b) restrain riots, routs, noises, disturbances or disorderly assemblies in any street, house or place in the city; [~~they may~~]

(c) regulate and prevent the discharge of firearms, rockets, powder, fireworks or any other dangerous or combustible material; [~~they may~~]

(d) provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in all cases where the money or property embezzled or obtained under false pretenses does not exceed in value the sum of

57 \$100; and [may]

58 (e) prohibit the sale, giving away or furnishing of intoxicating liquors or narcotics, or
59 of tobacco to any person under 21 years of age[; cities].

60 (2) Cities may, by ordinance[;]:

61 (a) prohibit the possession of controlled substances as defined in [the] Title 58, Chapter
62 37, Utah Controlled Substances Act, provided the conduct is not a class A misdemeanor or
63 felony[;]; and

64 (b) provide for treatment of alcoholics, narcotic addicts and other persons who are
65 addicted to the use of drugs or intoxicants such that they substantially lack the capacity to
66 control their use of the drugs or intoxicants, and judicial supervision may be imposed as a
67 means of effecting their rehabilitation.

68 Section 2. Section 10-8-50 is amended to read:

69 **10-8-50. Disturbing the peace -- Public intoxication -- Fighting -- Obscene**
70 **language -- Disorderly conduct -- Lewd behavior -- Interference with officers -- Trespass.**

71 (1) [Boards] Except as provided in Section 76-10-532, boards of commissioners and
72 city councils of cities may provide for the punishment of any person or persons for:

73 (a) disturbing the peace or good order of the city;

74 (b) disturbing the peace of any person or persons;

75 (c) disturbing any lawful assembly;

76 (d) public intoxication;

77 (e) challenging, encouraging, or engaging in fighting;

78 (f) using obscene or profane language in a place or under circumstances which could
79 cause a breach of the peace or good order of the city;

80 (g) engaging in indecent or disorderly conduct;

81 (h) engaging in lewd or lascivious behavior or conduct in the city; and

82 (i) interfering with any city officer in the discharge of his duty.

83 (2) Boards of commissioners and city councils of cities may provide for the
84 punishment of trespass and such other petty offenses as the board of commissioners or city
85 council may consider proper.

86 (3) (a) A woman's breast feeding, including breast feeding in any location where she
87 otherwise may rightfully be, does not under any circumstance constitute a lewd or indecent act,

irrespective of whether or not the breast is covered during or incidental to feeding.

(b) Boards of commissioners and city councils of cities may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breast feeding.

Section 3. Section **76-9-102** is amended to read:

76-9-102. Disorderly conduct.

(1) A person is guilty of disorderly conduct if:

(a) he refuses to comply with the lawful order of the police to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or

(b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, he:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

(ii) makes unreasonable noises in a public place;

(iii) makes unreasonable noises in a private place which can be heard in a public place;

or

(iv) obstructs vehicular or pedestrian traffic.

(2) "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(3) The otherwise lawful possession of a firearm or other dangerous weapon, whether visible or concealed, without additional behavior ~~that~~ [or] and circumstances that would cause a reasonable person to believe the firearm or other dangerous weapon was carried or possessed unlawfully or with criminal intent ~~that~~ , does not constitute a hazardous or physically offensive condition ~~that~~ [or] , ~~that~~ threatening behavior under Subsection (1) ~~that~~ , or a violation of this Section ~~that~~ .

~~that~~ (4) Nothing in this Section prohibits a law enforcement officer from questioning an individual. ~~that~~

~~that~~ (4) ~~that~~ (5) ~~that~~ Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

Section 4. Section **76-10-532** is enacted to read:

76-10-532. Possession of firearms or other dangerous weapons as applied to interpreting general laws.

(1) Except where explicit authority to regulate firearms or other dangerous weapons has been granted by the Legislature, a local authority, political subdivision, municipality, or any

other state entity may not enact, maintain, or enforce a law, ordinance, rule, regulation, code of conduct, or contractual obligation that limits or prevents the otherwise lawful possession of a firearm or other dangerous weapon, whether visible or concealed.

(2) If explicit authority has been granted by the Legislature to a local authority, political subdivision, municipality, or other state entity to regulate firearms or other dangerous weapons, any law, ordinance, rule, regulation, code of conduct, or contractual obligation based on that explicit grant of authority shall:

(a) reference the statute that grants the authority to regulate the firearm or other dangerous weapon;

(b) detail specifically the conduct involving a firearm or other dangerous weapon that is limited or prohibited; and

(c) use the term firearm if the prohibition or limitation only involves a firearm.

(3) A firearm or dangerous weapon law, ordinance, rule, regulation, code of conduct, or contractual obligation enacted, made, adopted, or entered into by a local authority, political subdivision, municipality, or other state entity that does not meet the requirements of Subsection (2) is void.