

PENALTY FOR TRAFFIC VIOLATION CAUSING A DEATH

2015 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill enacts provisions relating to violating a provision of the Traffic Code and causing the death of another person.

Highlighted Provisions:

This bill:

- ▶ provides that a violation of a provision of the Traffic Code otherwise punishable as an infraction or a class C misdemeanor is a class B misdemeanor if:
 - the person operates a moving motor vehicle; and
 - as a result of the violation, causes the death of another person;
- ▶ provides that the penalty enhancement does not apply to a violation of using a handheld wireless communication device while operating a moving motor vehicle;
- ▶ provides that a person is guilty of a separate offense for each victim whose death results from an enhanced violation, whether or not the deaths arise from the same episode of driving;
- ▶ provides that a judge may order a revocation of a person's driver license for a period of one year if the person is convicted of a traffic violation causing a death; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-218, as last amended by Laws of Utah 2011, Chapter 190

ENACTS:

41-6a-531, Utah Code Annotated 1953

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

34 Section 1. Section **41-6a-531** is enacted to read:

35 **Part 5. Driving under the Influence, Reckless Driving, and**
 36 **Traffic Violation Causing a Death**

37 **41-6a-531. Traffic violation causing death.**

38 (1) (a) Except as provided in Subsection (1)(b), it is a class B misdemeanor for a
 39 person to:

40 (i) operate a moving motor vehicle;

41 (ii) violate a provision of this chapter otherwise punishable as an infraction or class C
 42 misdemeanor; and

43 (iii) as a result of the violation, proximately cause the death of another.

44 (b) This section does not apply to a violation of using a handheld wireless
 45 communication device while operating a moving motor vehicle under Section 41-6a-1716.

46 (2) A person is guilty of a separate offense for each victim whose death results from a
 47 violation of this section, whether or not the deaths arise from the same episode of driving.

48 (3) A judge may order the revocation of the driver license of a person convicted under
 49 this section in accordance with Subsection 53-3-218(6).

50 Section 2. Section **53-3-218** is amended to read:

51 **53-3-218. Court to report convictions and may recommend suspension of license**
 52 **-- Severity of speeding violation defined.**

53 (1) As used in this section, "conviction" means conviction by the court of first
 54 impression or final administrative determination in an administrative traffic proceeding.

55 (2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses
 56 committed under this chapter or any other law of this state, or under any municipal ordinance
 57 regulating driving motor vehicles on highways or driving motorboats on the water, shall
 58 forward to the division within five days, an abstract of the court record of the conviction or
 59 plea held in abeyance of any person in the court for a reportable traffic or motorboating
 60 violation of any laws or ordinances, and may recommend the suspension of the license of the
 61 person convicted.

62 (b) When the division receives a court record of a conviction or plea in abeyance for a
 63 motorboat violation, the division may only take action against a person's driver license if the

64 motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the
65 Influence and Reckless Driving.

66 (c) (i) A court is not required to forward to the division within five days an abstract of
67 the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) and
68 the Driver License Division is not required to suspend a person's license for a violation
69 described in Subsection 53-3-220(1)(c) if:

70 (A) the violation did not involve a motor vehicle; and

71 (B) the person convicted of a violation described in Subsection 53-3-220(1)(c):

72 (I) is participating in or has successfully completed substance abuse treatment at a
73 licensed substance abuse treatment program that is approved by the Division of Substance
74 Abuse and Mental Health in accordance with Section 62A-15-105; or

75 (II) is participating in or has successfully completed probation through the Department
76 of Corrections Adult Probation and Parole in accordance with Section 77-18-1.

77 (ii) If the person convicted of a violation described in Subsection 53-3-220(1)(c) fails
78 to comply with the terms of a substance abuse treatment program under Subsection
79 (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II):

80 (A) the substance abuse treatment program licensed by the Division of Substance
81 Abuse and Mental Health or the Department of Corrections Adult Probation and Parole shall
82 immediately provide an affidavit or other sworn information to the court notifying the court
83 that the person has failed to comply with the terms of a substance abuse treatment program
84 under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);

85 (B) upon receipt of an affidavit or sworn statement under Subsection (2)(c)(ii)(A), the
86 court shall immediately forward an abstract of the court record of the conviction for a violation
87 described in Subsection 53-3-220(1)(c) to the division; and

88 (C) the division shall immediately suspend the person's license in accordance with
89 Subsection 53-3-220(1)(c).

90 (3) The abstract shall be made in the form prescribed by the division and shall include:

91 (a) the name, date of birth, and address of the party charged;

92 (b) the license certificate number of the party charged, if any;

93 (c) the registration number of the motor vehicle or motorboat involved;

94 (d) whether the motor vehicle was a commercial motor vehicle;

- 95 (e) whether the motor vehicle carried hazardous materials;
- 96 (f) whether the motor vehicle carried 16 or more occupants;
- 97 (g) whether the driver presented a commercial driver license;
- 98 (h) the nature of the offense;
- 99 (i) whether the offense involved an accident;
- 100 (j) the driver's blood alcohol content, if applicable;
- 101 (k) if the offense involved a speeding violation:
- 102 (i) the posted speed limit;
- 103 (ii) the actual speed; and
- 104 (iii) whether the speeding violation occurred on a highway that is part of the interstate
- 105 system as defined in Section 72-1-102;
- 106 (l) the date of the hearing;
- 107 (m) the plea;
- 108 (n) the judgment or whether bail was forfeited; and
- 109 (o) the severity of the violation, which shall be graded by the court as "minimum,"
- 110 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).
- 111 (4) When a convicted person secures a judgment of acquittal or reversal in any
- 112 appellate court after conviction in the court of first impression, the division shall reinstate the
- 113 convicted person's license immediately upon receipt of a certified copy of the judgment of
- 114 acquittal or reversal.
- 115 (5) Upon a conviction for a violation of the prohibition on using a handheld wireless
- 116 communication device for text messaging or electronic mail communication while operating a
- 117 moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the
- 118 convicted person's license for a period of three months.
- 119 (6) Upon a conviction for a traffic violation [of] causing a death under Section
- 120 41-6a-531 or a violation of careless driving under Section 41-6a-1715 that causes or results in
- 121 the death of another person, a judge may order a revocation of the convicted person's license
- 122 for a period of one year.