

EXPLOSIVES LAW AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Bryan D. Holladay

AN ACT RELATING TO THE CRIMINAL CODE; AMENDING PROVISIONS RELATING TO TRANSPORTATION, POSSESSION AND USE OF EXPLOSIVES; MODIFYING PENALTIES; REPEALING PROVISIONS REGARDING UNLAWFUL HANDLING OF EXPLOSIVES IN CITY OR TOWN; MODIFYING DEFINITIONS RELATING TO EXPLOSIVES; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

76-3-203.5, as last amended by Chapter 259, Laws of Utah 1998

76-3-501, as enacted by Chapter 258, Laws of Utah 1994

76-8-311.1, as enacted by Chapter 164, Laws of Utah 1996

76-8-311.3, as last amended by Chapter 288, Laws of Utah 1997

76-10-306, as last amended by Chapter 10, Laws of Utah 1997

76-10-307, as last amended by Chapter 75, Laws of Utah 1993

76-10-501, as last amended by Chapter 263, Laws of Utah 1998

76-10-503, as last amended by Chapter 289, Laws of Utah 1997

76-10-529, as enacted by Chapter 117, Laws of Utah 1997

76-10-1505, as last amended by Chapter 282, Laws of Utah 1998

76-10-1602, as last amended by Chapters 65 and 174, Laws of Utah 1997

76-10-1902, as last amended by Chapter 147, Laws of Utah 1995

77-23a-8, as last amended by Chapter 10, Laws of Utah 1997

78-7-6, as last amended by Chapter 164, Laws of Utah 1996

REPEALS:

76-10-301, as enacted by Chapter 196, Laws of Utah 1973

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

Section 1. Section **76-3-203.5** is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any offense against a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who, on at least two previous occasions as provided in Subsection (2), has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) (i) "Violent felony" means any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of these offenses punishable as a felony:

(A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief under Title 76, Chapter 6, Part 1, Property Destruction;

(B) aggravated assault under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(C) criminal homicide offenses under Title 76, Chapter 5, Part 2, Criminal Homicide;

(D) aggravated kidnapping and kidnapping under Title 76, Chapter 5, Part 3, Kidnaping;

(E) rape, Section 76-5-402;

(F) rape of a child, Section 76-5-402.1;

(G) object rape, Section 76-5-402.2;

(H) object rape of a child, Section 76-5-402.3;

(I) forcible sodomy, Section 76-5-403;

(J) sodomy on a child, Section 76-5-403.1;

(K) forcible sexual abuse, Section 76-5-404;

(L) aggravated sexual abuse of a child and sexual abuse of a child, Section 76-5-404.1;

(M) aggravated sexual assault, Section 76-5-405;

(N) sexual exploitation of a minor, Section 76-5a-3;

(O) aggravated burglary and burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(P) aggravated robbery and robbery under Title 76, Chapter 6, Part 3, Robbery;

(Q) theft by extortion under Subsection 76-6-406(2)(a) or (b);

(R) tampering with a witness under Subsection 76-8-508(2)(c);

(S) tampering with a juror under Subsection 76-8-508.5(2)(c);

(T) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed pursuant to Subsections 76-6-406(2)(a), (b), and (i);

(U) damage or destruction of school or institution of higher education property by explosives or flammable materials under Section 76-8-715;

(V) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76-10-306(3) through (6);

(W) unlawful delivery of explosive, chemical, or incendiary devices under Section 76-10-307;

(X) purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503;

(Y) unlawful discharge of a firearm under Section 76-10-508;

(Z) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);

(AA) bus hijacking under Section 76-10-1504; and

(BB) ~~[bombing or placing a bomb or explosive in, upon, or near a terminal or bus]~~ discharging firearms and hurling missiles under Section 76-10-1505; or

(ii) any felony offense against a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this subsection if committed in this state.

(2) (a) The penalty enhancement provisions of this section apply, if during the ten years immediately preceding the commission of the violent felony, the person has been:

(i) convicted of any felony;

(ii) incarcerated, on parole, or on probation for any felony; or

(iii) the subject of an unexecuted felony arrest warrant.

(b) The provisions of Subsection (2)(a) include any conviction, incarceration, parole, probation, escape, absconction, and arrest warrant under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States.

(3) If a person is convicted in this state of a violent felony by plea or by verdict and the sentencing court determines the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony shall be as if the conviction were for a first degree felony;

(b) second degree felony shall be as if the conviction were for a first degree felony; or

(c) first degree felony shall remain the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor to determine the length of incarceration.

(4) (a) In all cases, notice that the prosecution intends to seek punishment as a habitual violent offender under this section shall be provided in writing and shall be served upon the defendant or his attorney not later than ten days prior to trial. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(c) The court shall determine if this section applies prior to or at the time of sentencing. The court shall consider any evidence presented at trial and shall afford the prosecution and the defendant an opportunity to present any necessary additional evidence. Prior to sentencing under this section, the court shall determine whether this section is applicable by a preponderance of the evidence.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived his right to have counsel present, and that his plea was understandingly and voluntarily

entered.

(e) If the court finds this section applicable, it shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the court to be a habitual violent offender and is sentenced under this section.

(5) The habitual violent offender provisions of this section are not an element of the offense, and proof of a defendant's conduct as a habitual violent offender is not necessary at a preliminary hearing or at trial.

(6) (a) The sentencing enhancement provisions of Sections 76-3-407 and 76-3-408 shall apply to a felony conviction defined in Title 76, Chapter 5, Part 4, Sexual Offenses, and shall supersede the provisions of this section.

(b) Notwithstanding Subsection (6)(a):

(i) the convictions under Sections 76-5-404 and 76-5a-3 shall be governed by the enhancement provisions of this section; and

(ii) the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Title 76, Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

Section 2. Section **76-3-501** is amended to read:

76-3-501. Vehicle subject to forfeiture -- Seizure -- Procedure.

(1) Any vehicle used in the commission of, attempt to commit, or flight after commission of any felony in which a firearm[, incendiary device,] or other dangerous weapon as defined in Section 76-10-501, or explosive, chemical, or incendiary device or parts as defined in Section 76-10-306 is used, or any vehicle used in the commission of the illegal possession or sale of a firearm in or from the vehicle, is subject to forfeiture and no property right exists in it if the owner of the vehicle was a knowing participant in the offense or voluntarily allowed the vehicle to be used, knowing that it would probably be used to commit the offense.

(2) Any forfeiture of a vehicle subject to a bona fide security interest is subject to the interest of a secured party who could not have known in the exercise of reasonable diligence that a violation would or did take place in the use of the vehicle.

(3) Vehicles subject to forfeiture under this section may be seized by any peace officer of this state upon process issued by any court having jurisdiction over the vehicle. However, seizure without process may be made when:

152 (a) the seizure is incident to a lawful arrest, with or without an arrest warrant;

153 (b) the vehicle is seized incident to a lawful search with or without a search warrant or an
154 inspection under an administrative inspection warrant;

155 (c) the vehicle subject to seizure has been the subject of a prior judgment in favor of the
156 state in a criminal injunction or forfeiture proceeding; or

157 (d) the peace officer seizing the vehicle has probable cause to believe that the vehicle has
158 been used or is intended to be used in violation of this section and the peace officer reasonably
159 believes that the vehicle will be lost, damaged, or used in further violation of law if the officer
160 delays seizure to obtain a warrant.

161 (4) In the event of seizure under Subsection (3), proceedings under Subsection (5) shall
162 be instituted promptly.

163 (5) Any vehicle taken or detained under this section is not repleviable but is in custody of
164 the law enforcement agency making the seizure, subject only to the orders and decrees of the court
165 or the official having jurisdiction. When a vehicle is seized under this chapter the appropriate
166 person or agency may:

167 (a) remove the vehicle to a place designated by the court, official, or the warrant under
168 which the vehicle was seized; or

169 (b) take custody of the vehicle and remove it to an appropriate location for disposition in
170 accordance with law.

171 (6) When any vehicle is subject to forfeiture, determination for forfeiture to the state shall
172 be made as follows:

173 (a) A complaint verified on oath or affirmation shall be prepared by the county attorney,
174 or if within a prosecution district the district attorney, where the vehicle was seized or is to be
175 seized. The complaint shall be filed in the district court where the vehicle was seized. The
176 complaint shall describe with reasonable particularity the:

177 (i) vehicle which is the subject matter of the proceeding;

178 (ii) date and place of seizure, if known; and

179 (iii) allegations which constitute the basis for forfeiture.

180 (b) Upon filing the complaint, the clerk of the court shall forthwith issue a warrant for the
181 seizure of the vehicle which is the subject matter of the action and deliver it to the sheriff for
182 service upon the seizing person or agency.

(c) Notice of the seizure and intended forfeiture shall be filed with the county clerk, and served together with a copy of the complaint, upon all persons known to the county attorney or district attorney to have a claim in the vehicle by one of the following methods:

(i) upon each claimant whose name and address is known, at the last known address of the claimant, or upon each owner whose right, title, or interest is of record in the Division of Motor Vehicles, by mailing a copy of the notice and complaint by certified mail to the address given upon the records of the division, which service is considered complete even though the mail is refused or cannot be forwarded; and

(ii) upon all other claimants whose addresses are unknown, but who are believed to have an interest in the vehicle, by publication in a newspaper of general circulation in the county where the seizure was made.

(d) Any claimant or interested party shall file with the court a verified answer to the complaint within 20 days after service has been obtained.

(e) When a vehicle is seized under this section, any interested person or claimant of the vehicle, prior to being served with a complaint under this section, may file a petition in the court having jurisdiction for release of his interest in the vehicle. The petition shall specify the claimant's interest in the vehicle and his right to have it released. A copy shall be served upon the county attorney or, if within a prosecution district the district attorney, in the county of the seizure, who shall answer the petition within 20 days. A petitioner under this subsection need not answer a complaint of forfeiture.

(f) After 20 days following service of a complaint or petition for release, the court shall examine the record and if no answer is on file, the court shall allow the complainant or petitioner an opportunity to present evidence in support of his claim and order forfeiture or release of the vehicle as the court determines. If the county attorney or district attorney has not filed an answer to a petition for release and the court determines from the evidence that the petitioner is not entitled to recovery of the vehicle, it shall enter an order directing the county attorney or district attorney to answer the petition within ten days. If no answer is filed within that period, the court shall order the release of the vehicle to the petitioner entitled to receive it.

(g) When an answer to a complaint or petition appears of record at the end of 20 days, the court shall promptly set the matter for hearing. At this hearing all interested parties may present evidence of their rights of release of the vehicle following the state's evidence for forfeiture. The

214 court shall determine by a preponderance of the evidence the issues in the case and order forfeiture
215 or release of the vehicle as it determines.

216 (h) Proceedings of this section are independent of any other proceedings, whether civil or
217 criminal, under the laws of this state.

218 (i) When the court determines that claimants have no right in the vehicle in whole or in
219 part, it shall declare the vehicle to be forfeited and direct it to be delivered for disposition in
220 accordance with Subsection (7).

221 (j) When the court determines that the vehicle, in whole or in part, is not subject to
222 forfeiture, it shall order release of the vehicle to the proper claimant. If the court determines that
223 the vehicle is subject to forfeiture in part and release in part, it shall order partial release and partial
224 forfeiture. When the vehicle cannot be divided for partial forfeiture and release, the court shall
225 order it sold and the proceeds distributed:

226 (i) first, proportionally among the legitimate claimants;

227 (ii) second, to defray the costs of the action, including seizure, storage of the vehicle, legal
228 costs of filing and pursuing the forfeiture, and costs of sale; and

229 (iii) third, in accordance with Subsection (7).

230 (k) In a proceeding under this section where forfeiture is declared, in whole or in part, the
231 court shall assess all costs of the forfeiture proceeding, including seizure and storage of the vehicle,
232 against the individual or individuals whose conduct was the basis of the forfeiture, and may assess
233 costs against any other claimant or claimants to the vehicle as appropriate.

234 (7) When any vehicle is forfeited under this section by a finding of the court that no person
235 is entitled to recover it or that the vehicle is subject to forfeiture in part and release in part to a
236 claimant, a court shall order that the vehicle be delivered to the seizing agency for sale as the court
237 directs. The court shall also order that the proceeds from the sale of the vehicle be distributed in
238 accordance with the provisions of Subsection (6)(j).

239 (8) When the court orders that a vehicle be forfeited, in whole or in part, under this section,
240 it shall direct that the proceeds from the sale of the forfeited vehicle, or part thereof, be divided or
241 distributed as follows:

242 (a) 3/4 to the agency making the seizure; and

243 (b) 1/4 to the state treasurer for deposit into the General Fund.

244 (9) If the vehicle is found by the court not to be subject to forfeiture, it shall be released

to the owner.

Section 3. Section **76-8-311.1** is amended to read:

76-8-311.1. Secure areas -- Items prohibited -- Penalty.

(1) In addition to the definitions in Section 76-10-501, as used in this section:

(a) "Correctional facility" has the same meaning as defined in Section 76-8-311.3.

(b) "Explosive" has the same meaning as defined for "explosive, chemical, or incendiary device" defined in Section 76-10-306.

(c) "Law enforcement facility" means a facility which is owned, leased, or operated by a law enforcement agency.

(d) "Mental health facility" has the same meaning as defined in Section 62A-12-202.

(e) (i) "Secure area" means any area into which certain persons are restricted from transporting any firearm, ammunition, dangerous weapon, or explosive.

(ii) A "secure area" may not include any area normally accessible to the public.

(2) A person in charge of a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm, ammunition, dangerous weapon, or explosive.

(3) At least one notice shall be prominently displayed at each entrance to an area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) Provisions shall be made to provide a secure weapons storage area so that persons entering the secure area may store their weapons prior to entering the secure area. The entity operating the facility shall be responsible for weapons while they are stored in the storage area.

(5) It is a defense to any prosecution under this section that the accused, in committing the act made criminal by this section, acted in conformity with the facility's rule or policy established pursuant to this section.

(6) (a) Any person who knowingly or intentionally transports into a secure area of a facility any firearm, ammunition, or dangerous weapon, [~~or explosive~~] is guilty of a third degree felony.

(b) Any person violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a secure area of a facility.

Section 4. Section **76-8-311.3** is amended to read:

76-8-311.3. Items prohibited in correctional and mental health facilities -- Penalties.

(1) As used in this section:

(a) "Contraband" means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Controlled substance" means any substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(c) "Correctional facility" means:

(i) any facility operated by the Department of Corrections to house offenders in either a secure or nonsecure setting;

(ii) any facility operated by a municipality or a county to house or detain criminal offenders;

(iii) any juvenile detention facility; and

(iv) any building or grounds appurtenant to the facility or lands granted to the state, municipality, or county for use as a correctional facility.

(d) "Medicine" means any prescription drug as defined in Title 58, Chapter 17a, Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(e) "Mental health facility" has the same meaning as defined in Section 62A-12-202.

(f) "Offender" means a person in custody at a correctional facility.

(g) "Secure area" has the same meaning as provided in Section 76-8-311.1.

(2) Notwithstanding any other statute to the contrary, including Subsection 76-10-501[(b)](1), a correctional or mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be:

(a) transported to or upon a correctional or mental health facility;

(b) sold or given away at any correctional or mental health facility;

(c) given to or used by any offender at a correctional or mental health facility; or

(d) knowingly or intentionally possessed at a correctional or mental health facility.

(3) It is a defense to any prosecution under this section if the accused in committing the act made criminal by this section:

(a) with respect to a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) with respect to a correctional facility operated by a municipality, acted in conformity

with the policy of the municipality;

(c) with respect to a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) with respect to a mental health facility, acted in conformity with the policy of the mental health facility.

(4) (a) Any person who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, ~~[explosive,]~~ or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

(b) Any person who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, ~~[explosive,]~~ or implement of escape is guilty of a second degree felony.

(c) Any offender who possesses at a correctional facility, or any detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, ~~[explosive,]~~ or implement of escape is guilty of a second degree felony.

(d) Any person who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape, ~~[or explosive]~~ is guilty of a third degree felony.

(e) Any person violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.

(5) (a) A person is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, whether or not lawfully prescribed for the offender; or

(iii) poison in any quantity.

(b) A person is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, whether or not lawfully prescribed for the offender; or

(iii) poison in any quantity.

(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or

(iii) poison in any quantity.

(d) A person is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine; or

(iii) poison in any quantity.

(e) A person is guilty of a class B misdemeanor who, without the permission of the authority operating the facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.

(f) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

(6) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

Section 5. Section **76-10-306** is amended to read:

76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions -- Persons exempted -- Penalties for possession, use, or removal.

(1) As used in this section:

(a) "Explosive, chemical, or incendiary device" means:

(i) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives,

T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;

(ii) any explosive bomb, grenade, missile, or similar device; and

(iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

(b) "Explosive, chemical, or incendiary device" shall not include rifle, pistol, or shotgun ammunition.

(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:

(i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;

(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and

(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.

(d) "Explosive, chemical, or incendiary parts" shall not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(2) The provisions in Subsections (3) and (6) shall not apply to:

(a) any public safety officer while acting in his official capacity transporting or otherwise handling explosives, chemical, or incendiary devices;

(b) any member of the armed forces of the United States or Utah National Guard while acting in his official capacity;

(c) any person possessing a valid permit issued under the provisions of Uniform Fire Code, Article 77, or any employee of such permittee acting within the scope of his employment;

(d) any person possessing a valid license as an importer, wholesaler, or display operator

under the provisions of Sections 11-3-3.5 and 53-7-223; and

(e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of its lawful business operations.

(3) Any person who knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device is guilty of a felony of the second degree.

(4) Any person is guilty of a first degree felony who knowingly~~;~~ or intentionally~~;~~ or recklessly~~;~~:

(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony; ~~or~~

(b) injures another or attempts to injure another in his person or property through the use of an explosive, chemical, or incendiary device~~;~~ is guilty of a felony of the first degree; or

(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-10-529, or 78-7-6.

(5) Any person who knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where said explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a felony of the second degree.

(6) Any person who knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a felony of the third degree.

Section 6. Section **76-10-307** is amended to read:

76-10-307. Explosive, chemical, or incendiary device -- Delivery to common carrier or mailing.

[Every] Any person is guilty of a felony of the second degree who delivers or causes to be delivered to any express or railway company or other common carrier, or to any person, any explosive, chemical, or incendiary device, knowing it to be the device, without informing the common carrier or person of its nature~~;~~ or sends it through the mail~~;~~ or ~~throws or places it on or about the premises or property of another or in any place where another may be injured thereby in his person or property, is guilty of a felony of the second degree~~].

Section 7. Section **76-10-501** is amended to read:

76-10-501. Uniform law -- Definitions.

(1) (a) The individual right to keep and bear arms being a constitutionally protected right, the Legislature finds the need to provide uniform laws throughout the state. Except as specifically provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

(i) prohibited from owning, possessing, purchasing, transporting, or keeping any firearm at his place of residence, property, business, or in any vehicle under his control; or

(ii) required to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(b) This part is uniformly applicable throughout this state and in all its political subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state except where the Legislature specifically delegates responsibility to local authorities. Unless specifically authorized by the Legislature by statute, a local authority may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.

(2) As used in this part:

(a) (i) "Concealed dangerous weapon" means a dangerous weapon that is covered, hidden, or secreted in a manner that the public would not be aware of its presence and is readily accessible for immediate use.

(ii) A dangerous weapon shall not be considered a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.

(b) "Crime of violence" means aggravated murder, murder, manslaughter, rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or an attempt to commit any of these offenses.

(c) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun through the division or the local law enforcement agency where the firearms dealer conducts business.

(d) (i) "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether a knife, or any other item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon:

[(i)] (A) the character of the instrument, object, or thing;

- 462 [(ii)] (B) the character of the wound produced, if any;
- 463 [(iii)] (C) the manner in which the instrument, object, or thing was used; and
- 464 [(iv)] (D) the other lawful purposes for which the instrument, object, or thing may be used.

465 (ii) "Dangerous weapon" does not include any explosive, chemical, or incendiary device
466 as defined by Section 76-10-306.

467 (e) "Dealer" means every person who is licensed under crimes and criminal procedure, 18
468 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring a handgun,
469 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

470 (f) "Division" means the Criminal Investigations and Technical Services Division of the
471 Department of Public Safety, created in Section 53-10-103.

472 (g) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or sawed-off
473 rifle, or any device that could be used as a dangerous weapon from which is expelled a projectile
474 by action of an explosive.

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

478 (i) "Firearms transaction record form" means a form created by the division to be
479 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

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

483 (k) "Prohibited area" means any place where it is unlawful to discharge a firearm.

484 (l) "Readily accessible for immediate use" means that a firearm or other dangerous weapon
485 is carried on the person or within such close proximity and in such a manner that it can be retrieved
486 and used as readily as if carried on the person.

487 (m) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or barrels
488 of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than
489 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration,
490 modification, or otherwise, if the weapon as modified has an overall length of fewer than 26
491 inches.

492 (n) "Securely encased" means not readily accessible for immediate use, such as held in a

gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

Section 8. Section **76-10-503** is amended to read:

76-10-503. Purchase or possession of dangerous weapon/handgun -- Persons not permitted to have -- Penalties.

(1) (a) Any person who has been convicted of any crime of violence under the laws of the United States, this state, or any other state, government, or country, or who is addicted to the use of any narcotic drug, or who has been declared mentally incompetent may not own or have in his possession or under his custody or control any dangerous weapon as defined in Section 76-10-501.

(b) Any person who violates this subsection is guilty of a class A misdemeanor, and if the dangerous weapon is a firearm or sawed-off shotgun, he is guilty of a third degree felony.

(2) (a) Any person who is on parole or probation for a felony may not have in his possession or under his custody or control any explosive, chemical, or incendiary device, or dangerous weapon as defined in Section 76-10-501.

(b) Any person who violates this subsection is guilty of a third degree felony, but if the dangerous weapon is a firearm[;] or an explosive, chemical, or incendiary device he is guilty of a second degree felony.

(3) (a) A person may not purchase, possess, or transfer any handgun described in this part who:

(i) has been convicted of any felony offense under the laws of the United States, this state, or any other state;

(ii) is under indictment;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is a drug dependent person as defined in Section 58-37-2;

(v) has been adjudicated as mentally defective, as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(vi) is an alien who is illegally or unlawfully in the United States;

(vii) has been discharged from the Armed Forces under dishonorable conditions; or

(viii) is a person who, having been a citizen of the United States, has renounced such citizenship.

(b) Any person who violates this Subsection (3) is guilty of a third degree felony.

Section 9. Section **76-10-529** is amended to read:

76-10-529. Possession of dangerous weapons, firearms, or explosives in airport secure areas prohibited -- Penalty.

(1) As used in this section:

(a) "Airport authority" is the same as defined in Section 17A-2-1502.

(b) "Dangerous weapon" is the same as defined in Section 76-10-501.

(c) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section 76-10-306.

(d) "Firearm" is the same as defined in Section 76-10-501.

(2) (a) Within a secure area of an airport established pursuant to this section, a person, including a person licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed [Weapons] Weapon Act, is guilty of:

(i) a class B misdemeanor if the person knowingly or intentionally possesses any dangerous weapon[;] or firearm[; ~~or explosive~~]; [or]

(ii) an infraction if the person recklessly or with criminal negligence possesses any dangerous weapon[;] or firearm[;]; or [~~explosive~~];

(iii) a violation of Section 76-10-306 if the person transports, possesses, distributes, or sells any explosive, chemical, or incendiary device.

(b) Subsection (2)(a) does not apply to:

(i) persons exempted under Section 76-10-523; and

(ii) members of the state or federal military forces while engaged in the performance of their official duties.

(3) An airport authority, county, or municipality regulating the airport may:

(a) establish any secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or any other device, to detect dangerous weapons, firearms, or explosives concealed in baggage or upon the person of any individual attempting to enter the secure area.

(4) At least one notice shall be prominently displayed at each entrance to a secure area in which a dangerous weapon, firearm, or explosive is restricted.

(5) Upon the discovery of any dangerous weapon, firearm, or explosive, the airport authority, county, or municipality, the employees, or other personnel administering the secure area may:

(a) require the individual to deliver the item to the air freight office or airline ticket counter;

(b) require the individual to exit the secure area; or

(c) obtain possession or retain custody of the item until it is transferred to law enforcement officers.

Section 10. Section **76-10-1505** is amended to read:

76-10-1505. Discharging firearms and hurling missiles into buses and terminals -- Exception.

~~[(1) Any person who bombs or plants or places any bomb or other highly explosive substance or device in, upon or near any terminal or bus in which a person or persons are located or being transported is guilty of a first degree felony.]~~

~~[(2) Any person who bombs or plants or places any bomb or other highly explosive substance or device in, upon or near any terminal or bus in which there are stored, or shipped or being prepared for shipment, any goods, wares, merchandise or anything of value is guilty of a second degree felony.]~~

~~[(3) Any person who threatens a violation of subsection (1) or (2) is guilty of a third degree felony.]~~

~~[(4)]~~ (1) Any person who discharges a firearm or hurls a missile at or into any bus or terminal shall be guilty of a third degree felony.

(2) The prohibition of this [subsection] section does not apply to elected or appointed peace officers or commercial security personnel who discharge firearms or hurl missiles in the course and scope of their employment.

Section 11. Section **76-10-1602** is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

~~[(xxx)]~~ (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

~~[(bbbb)]~~ (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

~~[(cccc)]~~ (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Chapter 13, or Section 23-20-4; [and]

~~[(dddd)]~~ (d) false claims for medical benefits, kickbacks, and any other act prohibited by False Claims Act, Sections 26-20-1 through 26-20-12[-];

~~[(www)]~~ (e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal Offenses;

~~[(sss)]~~ (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

~~[(qqq)]~~ (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, or Title

617 58, Chapter 37c, Utah Controlled Substance Precursor Act;

618 ~~[(rrr)]~~ (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah

619 Uniform Securities Act;

620 ~~[(uuu)]~~ (i) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah

621 Procurement Code;

622 ~~[(a)]~~ (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

623 ~~[(b)]~~ (k) a threat against life or property, Section 76-5-107;

624 ~~[(c)]~~ (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;

625 ~~[(d)]~~ (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

626 ~~[(ooo)]~~ (n) sexual exploitation of a minor, Section 76-5a-3;

627 ~~[(e)]~~ (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

628 ~~[(f)]~~ (p) causing a catastrophe, Section 76-6-105;

629 ~~[(g)]~~ (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

630 ~~[(h)]~~ (r) burglary of a vehicle, Section 76-6-204;

631 ~~[(i)]~~ (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

632 ~~[(j)]~~ (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

633 ~~[(k)]~~ (u) theft, Section 76-6-404;

634 ~~[(l)]~~ (v) theft by deception, Section 76-6-405;

635 ~~[(m)]~~ (w) theft by extortion, Section 76-6-406;

636 ~~[(n)]~~ (x) receiving stolen property, Section 76-6-408;

637 ~~[(o)]~~ (y) theft of services, Section 76-6-409;

638 ~~[(p)]~~ (z) forgery, Section 76-6-501;

639 ~~[(q)]~~ (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;

640 ~~[(yyy)]~~ (bb) deceptive business practices, Section 76-6-507;

641 ~~[(s)]~~ (cc) bribery or receiving bribe by person in the business of selection, appraisal, or

642 criticism of goods, Section 76-6-508;

643 ~~[(t)]~~ (dd) bribery of a labor official, Section 76-6-509;

644 ~~[(u)]~~ (ee) defrauding creditors, Section 76-6-511;

645 ~~[(v)]~~ (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;

646 ~~[(w)]~~ (gg) unlawful dealing with property by fiduciary, Section 76-6-513;

647 ~~[(x)]~~ (hh) bribery or threat to influence contest, Section 76-6-514;

648 ~~[(y)]~~ (ii) making a false credit report, Section 76-6-517;
 649 ~~[(z)]~~ (jj) criminal simulation, Section 76-6-518;
 650 ~~[(aa)]~~ (kk) criminal usury, Section 76-6-520;
 651 ~~[(bb)]~~ (ll) false or fraudulent insurance claim, Section 76-6-521;
 652 ~~[(r)]~~ (mm) computer ~~[fraud, Title 76, Chapter 6, Part 7]~~ crimes, Section 76-6-703;
 653 ~~[(cc)]~~ (nn) sale of a child, Section 76-7-203;
 654 ~~[(dd)]~~ (oo) bribery to influence official or political actions, Section 76-8-103;
 655 ~~[(ee)]~~ (pp) threats to influence official or political action, Section 76-8-104;
 656 ~~[(ff)]~~ (qq) receiving bribe or bribery by public servant, Section 76-8-105;
 657 ~~[(gg)]~~ (rr) receiving bribe or bribery for endorsement of person as public servant, Section
 658 76-8-106;
 659 ~~[(hh)]~~ (ss) official misconduct, Sections 76-8-201 and 76-8-202;
 660 ~~[(ii)]~~ (tt) obstructing justice, Section 76-8-306;
 661 ~~[(jj)]~~ (uu) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
 662 ~~[(kk)]~~ (vv) false or inconsistent material statements, Section 76-8-502;
 663 ~~[(H)]~~ (ww) false or inconsistent statements, Section 76-8-503;
 664 ~~[(mm)]~~ (xx) written false statements, Section 76-8-504;
 665 ~~[(nm)]~~ (yy) tampering with a witness, retaliation against a witness or informant, or bribery,
 666 Section 76-8-508;
 667 ~~[(oo)]~~ (zz) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
 668 ~~[(pp)]~~ (aaa) tampering with evidence, Section 76-8-510;
 669 ~~[(ttt)]~~ (bbb) false claims for public assistance under Section ~~[35A-1-502;]~~ 76-8-1203,
 670 76-8-1204, or 76-8-1205;
 671 ~~[(qq)]~~ (ccc) intentionally or knowingly causing one animal to fight with another,
 672 Subsection 76-9-301(1)(f);
 673 (ddd) possession, use, or removal of explosives, chemical, or incendiary devices or parts,
 674 Section 76-10-306;
 675 ~~[(rr)]~~ (eee) delivery to common carrier, mailing, or placement on premises of an incendiary
 676 device, Section 76-10-307;
 677 ~~[(ss) construction or possession of an incendiary device, Section 76-10-308;]~~
 678 ~~[(tt)]~~ (fff) possession of a deadly weapon with intent to assault, Section 76-10-507;

679 ~~[(ttt)]~~ ~~(ggg)~~ unlawful marking of pistol or revolver, Section 76-10-521;
 680 ~~[(vvv)]~~ ~~(hhh)~~ alteration of number or mark on pistol or revolver, Section 76-10-522;
 681 ~~[(www)]~~ ~~(iii)~~ forging or counterfeiting trademarks, trade name, or trade device, Section
 682 76-10-1002;
 683 ~~[(xx)]~~ ~~(jii)~~ selling goods under counterfeited trademark, trade name, or trade devices,
 684 Section 76-10-1003;
 685 ~~[(yy)]~~ ~~(kkk)~~ sales in containers bearing registered trademark of substituted articles, Section
 686 76-10-1004;
 687 ~~[(zz)]~~ ~~(lll)~~ selling or dealing with article bearing registered trademark or service mark with
 688 intent to defraud, Section 76-10-1006;
 689 ~~[(aaa)]~~ ~~(mmm)~~ gambling, Section 76-10-1102;
 690 ~~[(bbb)]~~ ~~(nnn)~~ gambling fraud, Section 76-10-1103;
 691 ~~[(ccc)]~~ ~~(ooo)~~ gambling promotion, Section 76-10-1104;
 692 ~~[(ddd)]~~ ~~(ppp)~~ possessing a gambling device or record, Section 76-10-1105;
 693 ~~[(eee)]~~ ~~(qqq)~~ confidence game, Section 76-10-1109;
 694 ~~[(fff)]~~ ~~(rrr)~~ distributing pornographic material, Section 76-10-1204;
 695 ~~[(ggg)]~~ ~~(sss)~~ inducing acceptance of pornographic material, Section 76-10-1205;
 696 ~~[(hhh)]~~ ~~(ttt)~~ dealing in harmful material to a minor, Section 76-10-1206;
 697 ~~[(iii)]~~ ~~(uuu)~~ distribution of pornographic films, Section 76-10-1222;
 698 ~~[(jjj)]~~ ~~(vvv)~~ indecent public displays, Section 76-10-1228;
 699 ~~[(kkk)]~~ ~~(www)~~ prostitution, Section 76-10-1302;
 700 ~~[(Hh)]~~ ~~(xxx)~~ aiding prostitution, Section 76-10-1304;
 701 ~~[(mmm)]~~ ~~(yyy)~~ exploiting prostitution, Section 76-10-1305;
 702 ~~[(nnn)]~~ ~~(zzz)~~ aggravated exploitation of prostitution, Section 76-10-1306;
 703 ~~[(ppp)]~~ ~~(aaaa)~~ communications fraud, Section 76-10-1801;
 704 ~~[(zzz)]~~ ~~(bbbb)~~ any act prohibited by the criminal provisions of Title 76, Chapter 10, Part
 705 19, Money Laundering and Currency Transaction Reporting Act;
 706 ~~[(vvv)]~~ ~~(cccc)~~ any act prohibited by the criminal provisions of the laws governing taxation
 707 in this state; and
 708 ~~[(aaaa)]~~ ~~(dddd)~~ any act illegal under the laws of the United States and enumerated in Title
 709 18, Section 1961 (1)(B), (C), and (D) of the United States Code[;].

Section 12. Section **76-10-1902** is amended to read:

76-10-1902. Definitions.

As used in this part:

(1) "Bank" means each agent, agency, or office in this state of any person doing business in any one of the following capacities:

(a) a commercial bank or trust company organized under the laws of this state or of the United States;

(b) a private bank;

(c) a savings and loan association or a building and loan association organized under the laws of this state or of the United States;

(d) an insured institution as defined in Section 401 of the National Housing Act;

(e) a savings bank, industrial bank, or other thrift institution;

(f) a credit union organized under the laws of this state or of the United States; or

(g) any other organization chartered under Title 7 and subject to the supervisory authority set forth in that title.

(2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a transaction.

(3) (a) "Currency" means the coin and paper money of the United States or of any other country that is designated as legal tender, that circulates, and is customarily used and accepted as a medium of exchange in the country of issuance.

(b) "Currency" includes United States silver certificates, United States notes, Federal Reserve notes, and foreign bank notes customarily used and accepted as a medium of exchange in a foreign country.

(4) "Financial institution" means any agent, agency, branch, or office within this state of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities:

(a) a bank, except bank credit card systems;

(b) a broker or dealer in securities;

(c) a currency dealer or exchanger, including a person engaged in the business of check cashing;

(d) an issuer, seller, or redeemer of travelers checks or money orders, except as a selling

agent exclusively who does not sell more than \$150,000 of the instruments within any 30-day period;

(e) a licensed transmitter of funds or other person engaged in the business of transmitting funds;

(f) a telegraph company;

(g) a person subject to supervision by any state or federal supervisory authority; or

(h) the United States Postal Service regarding the sale of money orders.

(5) "Financial transaction" means a transaction:

(a) involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce; or

(b) involving the use of a financial institution that is engaged in, or its activities affect commerce in any way or degree.

(6) The phrase "knows that the property involved represents the proceeds of some form of unlawful activity" means that the person knows or it was represented to the person that the property involved represents proceeds from a form of activity, although the person does not necessarily know which form of activity, that constitutes a crime under state or federal law, regardless of whether or not the activity is specified in Subsection (13).

(7) "Monetary instruments" means coins or currency of the United States or of any other country, travelers checks, personal checks, bank checks, money orders, and investment securities or negotiable instruments in bearer form or in other form so that title passes upon delivery.

(8) "Person" means an individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, and all other entities cognizable as legal personalities.

(9) "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind.

(10) "Property" means anything of value, and includes any interest in property, including any benefit, privilege, land, or right with respect to anything of value, whether real or personal, tangible or intangible.

(11) "Prosecuting agency" means the office of the attorney general or the office of the county attorney, including any attorney on the staff whether acting in a civil or criminal capacity.

(12) "Specified unlawful activity" means any unlawful activity defined as an unlawful

activity in Section 76-10-1602, except [~~Subsection (4)(aaaa)~~] an illegal act under Title 18, Section 1961(1)(B), (C), and (D), United States Code, and includes activity committed outside this state which, if committed within this state, would be unlawful activity.

(13) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, "transaction" includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(14) "Transaction in currency" means a transaction involving the physical transfer of currency from one person to another. A transaction that is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order that does not include the physical transfer of currency is not a transaction in currency under this chapter.

Section 13. Section **77-23a-8** is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

[~~(mm)~~] (a) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act; Title 58, Chapter 37c, Utah Controlled Substances Precursor Act; Title 58, Chapter 37d, Clandestine Drug Lab Act; punishable by a term of imprisonment of more than one year;

[~~(nn)~~] (b) any act prohibited by the criminal provisions of the Utah Uniform Securities Act and punishable by a term of imprisonment of more than one year, Title 61, Chapter 1; [~~or~~]

[~~(oo)~~] (c) attempt, Section 76-4-101; conspiracy, Section 76-4-201; solicitation, Section 76-4-203; to commit any of the offenses enumerated above so long as the attempt, conspiracy or

803 solicitation offense is punishable by a term of imprisonment of more than one year[-];
804 [(c)] (d) threat against life or property offense punishable by a maximum term of
805 imprisonment of more than one year, Section 76-5-107;
806 [(a)] (e) aggravated murder, Section 76-5-202; murder, Section 76-5-203; manslaughter,
807 Section 76-5-205;
808 [(b)] (f) kidnaping, Section 76-5-301; child kidnaping, Section 76-5-301.1; aggravated
809 kidnapping, Section 76-5-302; [~~child kidnapping~~, Section 76-5-301.1; ~~kidnapping~~, Section
810 76-5-301];
811 [(d)] (g) arson, Section 76-6-102; aggravated arson, Section 76-6-103[; ~~arson~~, Section
812 76-6-102];
813 [(e)] (h) burglary, Section 76-6-202; aggravated burglary, Section 76-6-203[; ~~burglary~~,
814 Section 76-6-202];
815 [(f)] (i) robbery, Section 76-6-301; aggravated robbery, Section 76-6-302[; ~~robbery~~,
816 Section 76-6-301];
817 [(g)] (j) theft, Section 76-6-404; theft by deception, Section 76-6-405; theft by extortion,
818 Section 76-6-406; when the theft, theft by deception or theft by extortion, is punishable by a
819 maximum term of imprisonment of more than one year;
820 [(h)] (k) receiving stolen property offense punishable by a maximum term of imprisonment
821 of more than one year, Section 76-6-408;
822 [(j)] (l) financial card transaction offenses punishable by a maximum term of
823 imprisonment of more than one year, Section 76-6-506.1, 76-6-506.2, 76-6-506.3, 76-6-506.4,
824 76-6-506.5, or 76-6-506.6;
825 [(i)] (m) bribery of a labor official, Section 76-6-509;
826 [(z)] (n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;
827 [(k)] (o) criminal simulation offenses punishable by a maximum term of imprisonment of
828 more than one year, Section 76-6-518;
829 [(t)] (p) criminal usury, Section 76-6-520;
830 [(m)] (q) false or fraudulent insurance claim offenses punishable by a maximum term of
831 imprisonment of more than one year, Section 76-6-521;
832 [(n)] (r) violations of the Computer Crimes Act punishable by a maximum term of
833 imprisonment of more than one year, Section 76-6-703;

834 [(o)] (s) bribery to influence official or political actions, Section 76-8-103;

835 [(p)] (t) misusing public moneys, Section 76-8-402;

836 [(q)] (u) tampering with a witness, retaliation against a witness or informant, or bribery,

837 communicating a threat, Section 76-8-508;

838 [(r)] (v) tampering with a juror, retaliation against a juror, Section 76-8-508.5;

839 [(s)] (w) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

840 [(t)] (x) tampering with evidence, Section 76-8-510;

841 [(u)] (y) destruction of property to interfere with preparation for defense or war, Section

842 76-8-802;

843 [(v)] (z) attempts to commit crimes of sabotage, Section 76-8-804;

844 [(w)] (aa) conspiracy to commit crimes of sabotage, Section 76-8-805;

845 [(x)] (bb) advocating criminal syndicalism or sabotage, Section 76-8-902;

846 [(y)] (cc) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

847 [(aa)] (dd) riot punishable by a maximum term of imprisonment of more than one year,

848 Section 76-9-101;

849 [(bb)] (ee) dog fighting, training dogs for fighting, dog fighting exhibitions punishable by

850 a maximum term of imprisonment of more than one year, Section 76-9-301.1;

851 [(dd)] (ff) explosive, chemical, or incendiary device[, construction, or] and parts,

852 possession, use, or removal, Section [76-10-308] 76-10-306;

853 [(cc)] (gg) explosive, chemical, or incendiary device, delivery to a common carrier[;] or

854 mailing[, or placement on premises], Section 76-10-307;

855 [(ee)] (hh) exploiting prostitution, Section 76-10-1305;

856 [(ff)] (ii) aggravated exploitation of prostitution, Section 76-10-1306;

857 [(gg)] (jj) bus hijacking, assault with intent to commit hijacking, dangerous weapon or

858 firearm, Section 76-10-1504;

859 [(hh)] (kk) [~~bombing or placing bomb or explosive in, upon, or near terminal or bus,~~

860 ~~threats,~~] discharging firearms[;] and hurling missiles, Section 76-10-1505;

861 [(ii)] (ll) violations of the Pattern of Unlawful Activity Act and the offenses listed under

862 the definition of unlawful activity in the act, including the offenses not punishable by a maximum

863 term of imprisonment of more than one year when those offenses are investigated as predicates for

864 the offenses prohibited by the act, [Subsection] Section 76-10-1602[(4)];

865 [(ff)] (mm) communications fraud, Section 76-10-1801;
866 [(jj)] (nn) money laundering, Sections 76-10-1903 and 76-10-1904; or
867 [(kk)] (oo) reporting by financial institutions when the offense is punishable by a
868 maximum term of imprisonment of more than one year, Section 76-10-1906[;].

869 Section 14. Section **78-7-6** is amended to read:

870 **78-7-6. Rules -- Right to make -- Limitation -- Security.**

871 (1) Every court of record may make rules, not inconsistent with law, for its own
872 government and the government of its officers; but such rules must neither impose any tax or
873 charge upon any legal proceeding nor give any allowance to any officer for service.

874 (2) The judicial council may provide, through the rules of judicial administration, for
875 security in or about a courthouse or courtroom, or establish a secure area as prescribed in Section
876 76-8-311.1.

877 (3) (a) Unless authorized by the rules of judicial administration, any person who
878 knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon[~~or explosive~~]
879 within a secure area established by the judicial council under this section is guilty of a third degree
880 felony.

881 (b) Any person is guilty of violating Section 76-10-306 who transports, possesses,
882 distributes, or sells an explosive, chemical, or incendiary device, as defined by Section 76-10-306,
883 within a secure area, established by the Judicial Council under this section.

884 Section 15. **Repealer.**

885 This act repeals:

886 Section **76-10-301, Unlawful handling of explosives in city or town.**

Legislative Review Note
as of 1-19-99 8:55 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel