

1 **UNAUTHORIZED CONTROL OF A MOTOR**

2 **VEHICLE AMENDMENTS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gary F. Cox**

6 **This act modifies the Criminal Code and the Motor Vehicle Act by repealing the current**  
7 **provision in the Motor Vehicle Act prohibiting unauthorized control of a vehicle, as this**  
8 **offense can be prosecuted under the current criminal code provision prohibiting wrongful**  
9 **appropriation of property. This act also amends the section regarding wrongful**  
10 **appropriation of property to provide that wrongful appropriation is a lesser included offense**  
11 **of the crime of theft.**

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

13 AMENDS:

14 **76-6-404.5**, as last amended by Chapter 21, Laws of Utah 1999

15 **78-3a-104**, as last amended by Chapter 149, Laws of Utah 2000

16 REPEALS:

17 **41-1a-1314**, as last amended by Chapter 100, Laws of Utah 1997

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

19 Section 1. Section **76-6-404.5** is amended to read:

20 **76-6-404.5. Wrongful appropriation -- Penalties.**

21 (1) A person commits wrongful appropriation if he obtains or exercises unauthorized  
22 control over the property of another, without the consent of the owner or legal custodian and with  
23 intent to temporarily appropriate, possess, or use the property or to temporarily deprive the owner  
24 or legal custodian of possession of the property.

25 (2) The consent of the owner or legal custodian of the property to its control by the actor  
26 is not presumed or implied because of the owner's or legal custodian's consent on a previous  
27 occasion to the control of the property by any person.

28 (3) Wrongful appropriation is punishable one degree lower than theft, as provided in  
29 Section 76-6-412, so that a violation which would have been:

30 (a) a second degree felony under Section 76-6-412 if it had been theft is a third degree  
31 felony if it is wrongful appropriation;

32 (b) a third degree felony under Section 76-6-412 if it had been theft is a class A  
33 misdemeanor if it is wrongful appropriation;

34 (c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class B  
35 misdemeanor if it is wrongful appropriation; and

36 (d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C  
37 misdemeanor if it is wrongful appropriation.

38 (4) Wrongful appropriation is a lesser included offense in the offense of theft.

39 Section 2. Section **78-3a-104** is amended to read:

40 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

41 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
42 jurisdiction in proceedings concerning:

43 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a  
44 person younger than 21 years of age who has violated any law or ordinance before becoming 18  
45 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

46 (b) a person 21 years of age or older who has failed or refused to comply with an order of  
47 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st  
48 birthday; however, the continuing jurisdiction is limited to causing compliance with existing  
49 orders;

50 (c) a minor who is an abused child, neglected child, or dependent child, as those terms are  
51 defined in Section 78-3a-103;

52 (d) a protective order for a minor who is alleged to be an abused child or neglected child,  
53 except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent or  
54 stepparent of the minor against a natural parent or stepparent of the minor;

55 (e) the determination of the custody of a minor or to appoint a guardian of the person or  
56 other guardian of a minor who comes within the court's jurisdiction under other provisions of this  
57 section;

58 (f) the termination of the legal parent-child relationship in accordance with Part 4,

59 Termination of Parental Rights Act, including termination of residual parental rights and duties;

60 (g) the treatment or commitment of a mentally retarded minor;

61 (h) a minor who is a habitual truant from school;

62 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of  
63 voluntariness or where otherwise required by law, employment, or enlistment of a minor when  
64 consent is required by law;

65 (j) any parent or parents of a minor committed to a secure youth corrections facility, to  
66 order, at the discretion of the court and on the recommendation of a secure youth corrections  
67 facility, the parent or parents of a minor committed to a secure youth corrections facility for a  
68 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth  
69 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other  
70 therapist the court may direct, for a period directed by the court as recommended by a secure youth  
71 corrections facility;

72 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

73 (l) the treatment or commitment of a mentally ill child. The court may commit a child to  
74 the physical custody of a local mental health authority or to the legal custody of the Division of  
75 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part  
76 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not  
77 commit a child directly to the Utah State Hospital;

78 (m) the commitment of a minor in accordance with Section 62A-8-501; and

79 (n) de novo review of final agency actions resulting from an informal adjudicative  
80 proceeding as provided in Section 63-46b-15.

81 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive  
82 jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent  
83 jurisdiction over all other traffic offenses committed by a minor 16 years of age or older, except  
84 that the court shall have exclusive jurisdiction over the following traffic offenses committed by  
85 a minor under 18 years of age:

86 (a) Section 76-5-207, automobile homicide;

87 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

88 (c) Section 41-6-45, reckless driving;

89 (d) Section ~~[41-1a-1314,]~~ 76-6-404.5 when the violation involves unauthorized control

90 over a motor vehicle, trailer, or semitrailer [~~for an extended period of time~~]; and

91 (e) Section 41-6-13.5, fleeing a peace officer.

92 (3) The court also has jurisdiction over traffic offenses that are part of a single criminal  
93 episode filed in a petition that contains an offense over which the court has jurisdiction.

94 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation  
95 certified to it by the district court pursuant to Section 78-3a-105.

96 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is  
97 referred to it by the Division of Child and Family Services or by public or private agencies that  
98 contract with the division to provide services to that minor where, despite earnest and persistent  
99 efforts by the division or agency, the minor has demonstrated that he:

100 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities  
101 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

102 (b) has run away from home.

103 (6) This section does not restrict the right of access to the juvenile court by private  
104 agencies or other persons.

105 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising  
106 under Section 78-3a-602.

107 **Section 3. Repealer.**

108 This act repeals:

109 **Section 41-1a-1314, Unauthorized control for extended time.**

---

---

**Legislative Review Note**  
**as of 1-2-01 1:34 PM**

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

**Office of Legislative Research and General Counsel**