

HUMAN TRAFFICKING AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: Curtis S. Bramble

6	Cosponsors:	Kevin S. Garn	Karen W. Morgan
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LONG TITLE

General Description:

This bill criminalizes human trafficking and human smuggling.

Highlighted Provisions:

This bill:

- ▶ criminalizes human smuggling for profit or commercial purposes;
- ▶ criminalizes human trafficking for forced labor and for sexual exploitation;
- ▶ distinguishes between human trafficking and aggravated human trafficking; and
- ▶ distinguishes between human smuggling and aggravated human smuggling.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with S.B. 81, Illegal Immigration, by providing a substantive amendment.

Utah Code Sections Affected:

ENACTS:

76-5-307, Utah Code Annotated 1953

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

36 Section 1. Section 76-5-307 is enacted to read:

37 **Part 3. Kidnapping, Trafficking, and Smuggling**

38 **76-5-307. Definitions.**

39 As used in Sections 76-5-308 through 76-5-312 of this part:

40 (1) "Family member" means a person's parent, grandparent, sibling, or any other person
41 related to the person by consanguinity or affinity to the second degree.

42 (2) "Smuggling of human beings" means the transportation or procurement of
43 transportation for one or more persons by an actor who knows or has reason to know that the
44 person or persons transported or to be transported are not:

- 45 (a) citizens of the United States;
- 46 (b) permanent resident aliens; or
- 47 (c) otherwise lawfully in this state or entitled to be in this state.

48 Section 2. Section 76-5-308 is enacted to read:

49 **76-5-308. Human trafficking.**

50 (1) An actor commits human trafficking for forced labor or forced sexual exploitation if
51 the actor recruits, harbors, transports, or obtains a person through the use of force, fraud, or
52 coercion by means of:

- 53 (a) threatening serious harm to, or physical restraint against, that person or a third
54 person;
- 55 (b) destroying, concealing, removing, confiscating, or possessing any passport,
56 immigration document, or other government identification document;
- 57 (c) abusing or threatening abuse of the law or legal process against the person or a third
58 person;
- 59 (d) using a condition of a person being a debtor due to a pledge of the debtor's personal

60 services or the personal services of a person under the control of the debtor as a security for
61 debt where the reasonable value of the services is not applied toward the liquidation of the debt
62 or the length and nature of those services are not respectively limited and defined; or

63 (e) using a condition of servitude by means of any scheme, plan, or pattern intended to
64 cause a person to believe that if the person did not enter into or continue in a condition of
65 servitude, that person or a third person would suffer serious harm or physical restraint, or would
66 be threatened with abuse of legal process.

67 (2) (a) Human trafficking for forced labor includes forced labor in industrial facilities,
68 sweatshops, households, agricultural enterprises, and any other workplace.

69 (b) Human trafficking for forced sexual exploitation includes all forms of forced
70 commercial sexual activity, including forced sexually explicit performance, forced prostitution,
71 forced participation in the production of pornography, forced performance in strip clubs, and
72 forced exotic dancing or display.

73 Section 3. Section **76-5-309** is enacted to read:

74 **76-5-309. Human trafficking and human smuggling -- Penalties.**

75 (1) Human trafficking for forced labor and human trafficking for forced sexual
76 exploitation are each a second degree felony, except under Section 76-5-310.

77 (2) Human smuggling of one or more human beings for profit or for a commercial
78 purpose is a third degree felony, except under Section 76-5-310.

79 (3) Human trafficking and human smuggling are each a separate offense from any other
80 crime committed in relationship to the commission of either of these offenses.

81 (4) A person who benefits financially or materially by receiving anything of value from
82 knowing participation in:

83 (a) human trafficking is guilty of a second degree felony; and

84 (b) human smuggling is guilty of a third degree felony.

85 Section 4. Section **76-5-310** is enacted to read:

86 **76-5-310. Aggravated human trafficking and aggravated human smuggling --**
87 **Penalties.**

88 (1) An actor commits aggravated human trafficking for forced labor or forced sexual
89 exploitation or aggravated human smuggling if, in the course of committing a human trafficking
90 or human smuggling offense under Section 76-5-309, the offense:

91 (a) results in the death of the trafficked or smuggled person;

92 (b) results in serious bodily injury of the trafficked or smuggled person;

93 (c) involves:

94 (i) rape under Section 76-5-402;

95 (ii) rape of a child under Section 76-5-402.1;

96 (iii) object rape under Section 76-5-402.2;

97 (iv) object rape of a child under Section 76-5-402.3;

98 (v) forcible sodomy under Section 76-5-403;

99 (vi) sodomy on a child under Section 76-5-403.1;

100 (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or

101 (viii) aggravated sexual assault under 76-5-405;

102 (d) involves more than ten victims in a single episode of human trafficking or human
103 smuggling; or

104 (e) involves a victim who is held against the victim's will for longer than 180
105 consecutive days.

106 (2) An actor commits aggravated human trafficking for forced labor or forced sexual
107 exploitation if the offense involves a victim who is younger than 18 years of age at the time of
108 the commission of the offense of trafficking.

109 (3) An actor commits aggravated human smuggling if the actor commits human
110 smuggling under Subsection 76-5-309(2) and any human being whom the person engages in
111 smuggling is:

112 (a) younger than 18 years of age; and

113 (b) not accompanied by a family member who is 18 years of age or older.

114 (4) (a) Aggravated human trafficking for forced labor or forced sexual exploitation and
115 aggravated human smuggling for profit or commercial purposes are each a first degree felony.

116 (b) Aggravated human trafficking and aggravated human smuggling are each a separate
117 offense from any other crime committed in relationship to the commission of either of these
118 offenses.

119 **Section 5. Coordinating H.B. 339 with S.B. 81 -- Modifying substantive language.**

120 If this H.B. 339 and S.B. 81, Illegal Immigration, both pass, it is the intent of the
121 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah
122 Code database for publication, modify Subsection 76-10-2701(3), as enacted by S.B. 81 to read
123 as follows:

124 (3) (a) A person who violates Subsection (2)(a) is guilty of a third degree felony.

125 (b) A person who violates Subsection (2)(b) is guilty of a class A misdemeanor.