

MOTOR FUEL THEFT PENALTIES

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon J. Greiner

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This bill modifies the Criminal Code and the Public Safety Code regarding theft of motor vehicle fuel when a motor vehicle is used in the commission of the offense.

Highlighted Provisions:

This bill:

▶ creates the separate theft offense of theft of motor vehicle fuel from a retail business if the fuel is removed with the intent to deprive the business of the fuel without full payment;

▶ provides that, in addition to the penalties for theft in Section 76-6-412, the person's driver license ~~shall~~ **may** be suspended for a conviction of theft of motor vehicle fuel [:

~~60 days for a first offense;~~

~~six months for a second offense; and~~

~~one year for a third or subsequent offense] for not more than 90 days ; and~~

▶ requires that the Driver License Division suspend a person's driver license upon receiving notice from a court that the person has been convicted of a theft offense under Section 76-6-404.7.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

S.B. 98



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53-3-220**, as last amended by Laws of Utah 2008, Chapters 3, 226, and 296

31 ENACTS:

32 **76-6-404.7**, Utah Code Annotated 1953



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

35 Section 1. Section **53-3-220** is amended to read:

36 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
37 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
38 **Limited driving privileges.**

39 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter
40 6a, Traffic Code, specifically provides for denial, suspension, or disqualification, the division
41 shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's
42 conviction for:

43 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
44 automobile homicide under Section 76-5-207;

45 (ii) driving or being in actual physical control of a motor vehicle while under the
46 influence of alcohol, any drug, or combination of them to a degree that renders the person
47 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
48 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

49 (iii) driving or being in actual physical control of a motor vehicle while having a blood
50 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
51 that complies with the requirements of Subsection 41-6a-510(1);

52 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
53 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
54 regulating driving on highways;

55 (v) any felony under the motor vehicle laws of this state;

56 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

57 (vii) failure to stop and render aid as required under the laws of this state if a motor
58 vehicle accident results in the death or personal injury of another;

59 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
60 driving and impaired driving committed within a period of 12 months; but if upon a first
61 conviction of reckless driving or impaired driving the judge or justice recommends suspension
62 of the convicted person's license, the division may after a hearing suspend the license for a
63 period of three months;

64 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
65 required in Section 41-6a-210;

66 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
67 requires disqualification;

68 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
69 allowing the discharge of a firearm from a vehicle;

70 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
71 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

72 (xiii) operating or being in actual physical control of a motor vehicle while having any
73 measurable controlled substance or metabolite of a controlled substance in the person's body in
74 violation of Section 41-6a-517;

75 (xiv) until July 30, 2015, operating or being in actual physical control of a motor
76 vehicle while having any alcohol in the person's body in violation of Section 53-3-232;

77 (xv) operating or being in actual physical control of a motor vehicle while having any
78 measurable or detectable amount of alcohol in the person's body in violation of Section
79 41-6a-530;

80 (xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
81 violation of Section 41-6a-606; or

82 (xvii) operating or being in actual physical control of a motor vehicle in this state
83 without an ignition interlock system in violation of Section 41-6a-518.2.

84 (b) The division shall immediately revoke the license of a person upon receiving a
85 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for:

86 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
87 allowing the discharge of a firearm from a vehicle; or

88 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
89 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

90 (c) Except when action is taken under Section 53-3-219 for the same offense, the
 91 division shall immediately suspend for six months the license of a person upon receiving a
 92 record of conviction for:

93 (i) any violation of:

94 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

95 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

96 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

97 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

98 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

99 (ii) any criminal offense that prohibits:

100 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
 101 that is prohibited under the acts described in Subsection (1)(c)(i); or

102 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
 103 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

104 (d) (i) The division shall immediately suspend a person's driver license ~~§~~ → [upon receiving
 105 a record of] for ~~←~~ ~~§~~ conviction ~~§~~ → [for] of ~~←~~ ~~§~~ the offense of theft of motor vehicle fuel under
 105a Section 76-6-404.7 ~~§~~ → if the division receives:

105b (A) an order from the sentencing court requiring that the person's driver
 105c license be suspended; and

105d (B) a record of the conviction ~~←~~ ~~§~~ .

106 (ii) ~~§~~ → [A] An order of ~~←~~ ~~§~~ suspension under this section is ~~§~~ → [:

107 ~~—— (A) 60 days for a first offense;~~

108 ~~—— (B) six months for a second offense; and~~

109 ~~—— (C) one year for a third or subsequent offense] at the discretion of the sentencing court,~~
 109a and may not be for more than 90 days for each offense ~~←~~ ~~§~~ .

110 (2) The division shall extend the period of the first denial, suspension, revocation, or
 111 disqualification for an additional like period, to a maximum of one year for each subsequent
 112 occurrence, upon receiving:

113 (a) a record of the conviction of any person on a charge of driving a motor vehicle
 114 while the person's license is denied, suspended, revoked, or disqualified;

115 (b) a record of a conviction of the person for any violation of the motor vehicle law in
 116 which the person was involved as a driver;

117 (c) a report of an arrest of the person for any violation of the motor vehicle law in
 118 which the person was involved as a driver; or

119 (d) a report of an accident in which the person was involved as a driver.

120 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is

121 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
122 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
123 or revocation originally imposed under Section 53-3-221.

124 (4) (a) The division may extend to a person the limited privilege of driving a motor
125 vehicle to and from the person's place of employment or within other specified limits on
126 recommendation of the trial judge in any case where a person is convicted of any of the
127 offenses referred to in Subsections (1) and (2) except:

128 (i) automobile homicide under Subsection (1)(a)(i);

129 (ii) those offenses referred to in Subsections (1)(a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),
130 (1)(b), and (1)(c); and

131 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
132 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
133 41-6a-517, a local ordinance which complies with the requirements of Subsection
134 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
135 was charged with violating as a result of a plea bargain after having been originally charged
136 with violating one or more of these sections or ordinances.

137 (b) This discretionary privilege is limited to when undue hardship would result from a
138 failure to grant the privilege and may be granted only once to any person during any single
139 period of denial, suspension, revocation, or disqualification, or extension of that denial,
140 suspension, revocation, or disqualification.

141 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
142 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
143 denied under this chapter.

144 Section 2. Section **76-6-404.7** is enacted to read:

145 **76-6-404.7. Theft of motor vehicle fuel.**

146 (1) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
147 matter, or substance that is used in an internal combustion engine for the generation of power.

148 (2) A person is guilty of theft of motor vehicle fuel who:

149 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
150 retail sale when motor fuel has been dispensed into:

151 (i) the fuel tank of the motor vehicle; or

152 (ii) any other container that is then removed from the premises by means of the motor
153 vehicle; and

154 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
155 operator of the premises of the motor fuel without making full payment for the fuel.

156 (3) In addition to the penalties for theft under Section 76-6-412, the ~~§~~ **→ sentencing court**
156a **may order the suspension of the ~~←~~§ driver license of a**
157 person convicted of theft of motor vehicle fuel ~~§~~ **→ [shall be suspended]** . **The suspension may not**
157a **be for more than 90 days ~~←~~§ as provided in Section**
158 53-3-220.

Legislative Review Note
as of 1-13-09 1:22 PM

Office of Legislative Research and General Counsel

S.B. 98 - Motor Fuel Theft Penalties

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill will require \$3,000 one-time funding for programming costs which can be covered with existing agency resources.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Transportation Fund Restricted	\$0	\$3,000	\$0	\$0	\$0	\$0
Total	\$0	\$3,000	\$0	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.