

1                   **LEAVING A CHILD UNATTENDED IN A MOTOR VEHICLE**

2                                   2011 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Benjamin M. McAdams**

5                                   House Sponsor: Lee B. Perry

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7 **LONG TITLE**

8 **General Description:**

9                   This bill amends the Utah Criminal Code by making it ~~H→~~ **[an infraction]** a class C  
9a misdemeanor ~~←H~~ to leave a child  
10 unattended in ~~S→~~ **an enclosed compartment of** ~~←S~~ a motor vehicle.

11 **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ defines terms;
- 14                   ▶ makes it a class C misdemeanor for a person who is responsible for a child under  
15 nine years of age to intentionally, recklessly, knowingly, or with criminal negligence  
16 leave a child in ~~S→~~ **an enclosed compartment of** ~~←S~~ a motor vehicle if:

16a ~~H→~~ • the motor vehicle is on public property or private property that is open to the general  
16b public; ~~←H~~

- 17                   • the child is not supervised by a person who is at least ~~H→~~ **[12]** ~~9~~ ~~←H~~ years old; and
- 18                   • the conditions present a risk to the ~~H→~~ **[child's health or safety]** child of  
18a hyperthermia, hypothermia, or dehydration ~~←H~~ ~~S→~~ **[, the engine is running,**  
19 **or the keys are in the passenger compartment of the motor vehicle]** ~~←S~~ ; ~~H→~~ **[and]** ~~←H~~

20                   ▶ provides that this bill does not apply if the person's conduct that constitutes a  
21 violation of this bill is ~~S→~~ **[punishable as a class B misdemeanor, a class A**  
22 **misdemeanor, or a felony.]** subject to a greater penalty under another  
22a provision of state law. ~~←S~~ ~~H→~~ ;

22b ▶ preempts enforcement of a local law or ordinance that makes it an infraction or a



22c **criminal offense to engage in the conduct that constitutes a misdemeanor under this bill;**  
22d **▶ provides that, notwithstanding any provision of state law to the contrary, a conviction**  
22e **under this bill may not be used by a state or local government entity as grounds for revoking,**  
22f **refusing to grant, or refusing to renew, a license or permit, including a license or permit**  
22g **relating to the provision of day care or child care.** ←H

23 **Money Appropriated in this Bill:**

24       None

25 **Other Special Clauses:**

26       None

27 **Utah Code Sections Affected:**

28 ENACTS:

29 76-10-2202, Utah Code Annotated 1953



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

32 Section 1. Section 76-10-2202 is enacted to read:

33 **76-10-2202. Leaving a child unattended in a motor vehicle.**

34 (1) As used in this section:

35 (a) "Child" means a person who is younger than nine years old.

35a ~~§~~→ (b) "Enclosed compartment" means any enclosed area of a motor vehicle, including the  
35b passenger compartment, regardless of whether a door, window, or hatch is left open.

36 ~~(b)~~ (c) ~~←~~§ "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other  
37 self-propelled vehicle.

38 (2) A person who is responsible for a child is guilty of a class C misdemeanor if:

39 (a) the person intentionally, recklessly, knowingly, or with criminal negligence leaves

40 the child in ~~§~~→ [a] an enclosed compartment of a ~~←~~§ motor vehicle;

40a ~~§~~→ (b) the motor vehicle is on:

40b (i) public property; or

40c (ii) private property that is open to the general public;

41 ~~(b)~~ c ~~←~~§ the child is not supervised by a person who is at least ~~§~~→ [12] 9 ~~←~~§ years  
41a old; and

42 ~~§~~→ [c] d ~~←~~§ ~~§~~→ [i] ~~←~~§ the conditions present a risk to the ~~§~~→ [child's health or  
42a safety ~~§~~→ that:

42a ~~(i) is due to] child of ~~←~~§ :~~

42b ~~§~~→ [A] (i) ~~←~~§ hyperthermia;

42c ~~§~~→ [B] (ii) ~~←~~§ hypothermia; or

42d ~~§~~→ [C] (iii) ~~←~~§ dehydration ~~§~~→ [; or] .

42e [(ii) a reasonable person would expect to exist when a child is left unsupervised in an enclosed

42f compartment of a motor vehicle.] ~~←~~§

42g [;

43 ~~(ii) the engine of the motor vehicle is running; or~~

44 ~~(iii) the keys to the motor vehicle are in the passenger compartment of the motor  
45 vehicle] ~~←~~§ .~~

46 (3) This section does not apply if the person's conduct that constitutes a violation of  
47 this section is ~~§~~→ [punishable as a class B misdemeanor, a class A misdemeanor, or a felony] subject  
47a to a greater penalty under another provision of state law ~~←~~§ .

47b ~~§~~→ (4) This section preempts enforcement of a local law or ordinance that makes it an

47c **infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor under**  
47d **this section.**

47e **(5) Notwithstanding any provision of state law to the contrary, a conviction under this**  
47f **section may not be used by a state or local government entity as grounds for revoking, refusing**  
47g **to grant, or refusing to renew, a license or permit, including a license or permit relating to the**  
47h **provision of day care or child care.** ←H

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**Legislative Review Note**  
as of 1-17-11 10:59 AM

**Office of Legislative Research and General Counsel**