

Nelson T. Abbott proposes the following substitute bill:

Limitations on Liability Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill addresses the limitation on the liability of an employer for an employee convicted or adjudicated of an offense.

Highlighted Provisions:

This bill:

- repeals a sunset date for a statute addressing the liability of an employer for an employee convicted or adjudicated of an offense;
- defines terms;
- modifies the definition of "employer";
- limits the protections that are provided to an employer in a cause of action regarding an employee who was previously convicted or adjudicated of an offense; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

78B-4-518, as enacted by Laws of Utah 2022, Chapter 423

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

Section 1. Section **63I-1-278** is amended to read:

63I-1-278 . Repeal dates: Title 78A and Title 78B.

(1) Subsection 78A-7-106(7), regarding the transfer of a criminal action involving a

29 domestic violence offense from the justice court to the district court, is repealed July 1,
30 2029.

31 (2) Section 78B-3-421, Arbitration agreements, is repealed July 1, 2029.

32 [~~(3) Section 78B-4-518, Limitation on liability of employer for an employee convicted of~~
33 ~~an offense, is repealed July 1, 2025.~~]

34 [~~(4) (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1,~~
35 ~~2026.~~]

36 [~~(5) (4) Section 78B-22-805, Interdisciplinary Parental Representation Pilot Program, is~~
37 ~~repealed December 31, 2026.~~]

38 Section 2. Section **78B-4-518** is amended to read:

39 **78B-4-518 . Limitation on liability of employer for employee convicted or**
40 **adjudicated of offense.**

41 (1) As used in this section:

42 (a) "Adjudication" means:

43 (i) a finding by a court that the facts in a delinquency petition or criminal information
44 alleging an individual committed an offense when the individual was younger
45 than 18 years old have been proved; or

46 (ii) an admission or plea of no contest upon a delinquency petition or criminal
47 information alleging an individual committed an offense when the individual was
48 younger than 18 years old.

49 (b) "Alcohol" means the same as that term is defined in Section 34-38-2.

50 (c) "Conviction" means:

51 (i) a plea of guilty, a plea of no contest, or a plea of guilty with a mental condition; or
52 (ii) a judgment of guilty or a judgment of guilty with a mental condition.

53 (d) "Drugs" means the same as that term is defined in Section 34-38-2.

54 [(a)] (e)(i) [~~Except as provided in Subsection (1)(a)(ii), "employee"~~] "Employee"
55 means an individual whom an employer hired for compensation to perform
56 services.

57 (ii) "Employee" does not include an independent contractor as defined in Subsection
58 34A-2-103(2)(b).

59 [(b)] (f) "Employer" means a person, including the state and any political subdivision of
60 the state, that employs one or more employees and is engaged in an industry or
61 business related to:

62 (i) automotive repair and maintenance;

- 63 (ii) construction;
- 64 (iii) culinary arts;
- 65 (iv) manufacturing;
- 66 (v) oil, gas, or mining;
- 67 (vi) retail sale of goods~~[-or services]~~; or
- 68 (vii) transportation of freight, merchandise, or other property by a commercial
- 69 vehicle.
- 70 (g) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 71 (h) "Negligent hiring" means the failure to exercise reasonable care in hiring or retaining
- 72 an employee.
- 73 (2) A cause of action may not be brought against an employer for [~~negligently~~] the negligent
- 74 hiring of an employee that is based solely on evidence that the employee has [~~been~~
- 75 ~~previously convicted~~] a prior conviction or adjudication in this state or in another
- 76 jurisdiction of an offense.
- 77 (3) Subsection (2) does not preclude a cause of action for negligent hiring of an employee if
- 78 the employer knew, or should have known, about the employee's prior conviction or
- 79 adjudication and due to the employee's prior conviction or adjudication:
- 80 (a) the employer violated state or federal law by hiring or continuing to employ the
- 81 employee; or
- 82 (b) the employer's hiring of the employee constitutes willful misconduct or gross
- 83 negligence.
- 84 (4) The protections provided to an employer under this section do not apply in a cause of
- 85 action concerning:
- 86 (a) [~~the~~] the misuse of funds or property of a person other than the employer if:
- 87 [~~(a)~~] (i) on the date that the employee was hired by the employer, the employee [~~had~~
- 88 ~~been previously convicted~~] had a prior conviction or adjudication of an offense
- 89 that includes fraud or the misuse of funds as an element of the offense; and
- 90 [~~(b)~~] (ii) it was foreseeable that the position for which the employee was hired would
- 91 involve duties in managing funds or property~~[-]~~ ;
- 92 (b) a felony offense committed by an employee involving a motor vehicle if the
- 93 employee operates a motor vehicle as part of the employee's employment and the
- 94 employee has a prior conviction or adjudication in this state or another jurisdiction
- 95 for:
- 96 (i) failure to respond to an officer's signal to stop as described in Section 41a-6a-210;

- 97 (ii) an accident involving injury as described in Section 41-6a-401.3;
98 (iii) an accident involving death as described in Section 41-6a-401.5;
99 (iv) aggravated assault as described in Section 76-5-103 if the employee used a motor
100 vehicle as a dangerous weapon in the commission of the aggravated assault;
101 (v) automobile homicide as described in Section 76-5-207; or
102 (vi) an offense that is substantially similar to an offense described in Subsection
103 (4)(b)(i) through (v);
- 104 (c) an offense committed by an employee involving a motor vehicle if the employee
105 operates a motor vehicle as part of the employee's employment and the employee has
106 at least three prior convictions or adjudications in this state or another jurisdiction for:
107 (i) reckless driving as described in Section 41-6a-528; or
108 (ii) an offense that is substantially similar to the offense described in Subsection (4)(c)
109 (i); or
- 110 (d) unless the employer instituted a reasonable drug or alcohol testing program to ensure
111 the sobriety of the employee, a felony offense committed by an employee involving a
112 motor vehicle if:
113 (i) the employee operates a motor vehicle as part of the employee's employment; and
114 (ii) the employee has a prior conviction or adjudication in this state or another
115 jurisdiction for:
116 (A) driving under the influence of alcohol, drugs, or a combination of both or with
117 specified or unsafe blood alcohol concentration as described in Section
118 41-6a-502; or
119 (B) an offense that is substantially similar to the offense described in Subsection
120 (4)(d)(ii)(A).
- 121 (5) In determining whether a drug or alcohol testing program is reasonable under
122 Subsection (4)(d), the court shall consider:
123 (a) the length of time that the employee was sober before the commission of the felony
124 offense;
125 (b) whether the employer has given the employee access to alcohol or drugs; and
126 (c) any other factor that the court considers relevant.
- 127 [~~(5)~~] (6) Section 63G-7-301 does not waive any immunity provided under this section for an
128 employer that is a governmental entity or an employee of a governmental entity as those
129 terms are defined in Section 63G-7-102.
- 130 [~~(6)~~] (7) This section does not:

- 131 (a) create a cause of action; or
- 132 (b) expand an existing cause of action.
- 133 Section 3. **Effective date.**
- 134 This bill takes effect on May 7, 2025.