

Traffic Code Amendments

H.B. 69

A dark blue diagonal graphic that starts from the bottom left corner and extends towards the top right corner, covering the lower half of the slide.

Turn Signal Use

On September 20, 2018, an officer was following a 2001 Lincoln Continental headed westbound on 30th Street. Just after the vehicle crossed Wall Avenue, the officer saw it move from the third lane from the left into the second lane without using a turn signal and initiated a traffic stop.

As 30th Street proceeds west after crossing Wall Avenue, the third lane from the left ends and merges with the second lane. Just prior to this merge, a yellow road sign signals the end of the third lane and white arrows direct traffic to move left.



Turn Signal Use

After initiating the stop, the officer approached the vehicle and immediately smelled the odor of marijuana. Cannabis oil, drug paraphernalia, a large amount of marijuana in individual plastic bags, cocaine, a red substance that appeared to be the drug “spice,” and half of a pink pill were located in a search of the vehicle.

The Defendant argued that this was an illegal stop because he was not required to signal under Utah Code § 41-6a-903, which only requires that he yield to other vehicles. The State countered that given the need to yield, it is common sense that there was also a need to signal and the language of Utah Code § 41-6a-804 was clear: if he had not moved left upon the roadway to merge into the new lane, he would have been off the road. The court found the statute unclear and assumed without deciding that he was not required to signal. The stop was upheld on other grounds.

Turn Signal Use

Other courts have had difficulty with this statute, coming to conflicting conclusions:

United States v. Powell, 929 F.2d 1190 (7th Cir.1991) (a Seventh Circuit panel determined that a Utah stop predicated on a failure to signal when merging was invalid and could not constitute probable cause for a stop);

United States v. Gregoire, 425 F. 3d 872 (10th Cir. 2005) (court used statutory construction to determine that signalling was required when entering freeway.).

The bill: “A person may not turn a vehicle, enter a roadway, merge into a continuing lane from a lane of travel that is ending, or otherwise move right or left on a roadway or change lanes until: . . .”

Driver Visibility

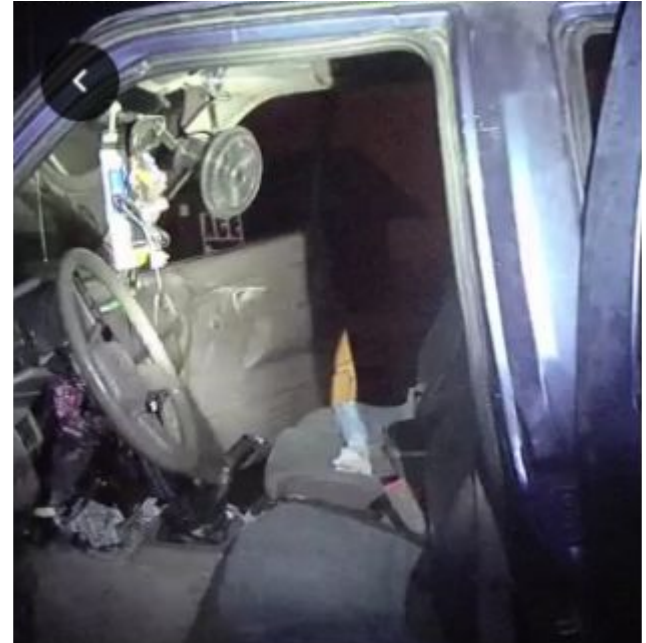
Utah Code § 41-6a-1635. Windshields and windows -- Tinting -- Obstructions reducing visibility -- Wipers -- Prohibitions.

With some exceptions, the statute prohibits: any sign, poster, or other nontransparent material on the windshield or side windows of the motor vehicle.

In a recent case, a driver was stopped based on a windshield that looked like this:

The purpose of the stop was not argued, but I found the statute unclear as to whether items hanging in the driver's view violate the statute the same way as a nontransparent poster clearly does.

Obviously, having this amount of clutter creates a safety issue. However, given the texting while driving statutes, we should be careful to allow for a phone or GPS mount.



Driver Visibility

The standard “materially obstructs” is in use in several other states:

Com. v. Holmes, 14 A.3d 89 (Penn. 2011) - officer observed a vehicle with objects hanging from the rearview mirror obstructing the driver's view and initiated stop. Penn statute requires that the object materially obstruct driver's view. This allows someone to have something on the mirror so long as it does not materially obstruct the driver's view. Officer failed to articulate reasonable suspicion of a material obstruction.

People v. Colbert, 68 Cal.Rptr.3d 912 (2007) - stop based on tree shaped air freshener hanging from rear view mirror. 4 in x 3 in. Officer's personal experience with that freshener led him to believe it would obstruct any driver's view and was aware of a car accident created by that type of freshener. This was sufficient to support reasonable suspicion to initiate the stop.

Driver Visibility

The objective is to utilize the “materially obstructs” standard to resolve the uncertainty about what is and is not allowed.

The bill would prohibit:

(e) any debris, frost, or other substance that materially obstructs the operator's view.

(2) (a) A person may not operate a motor vehicle with an object or device hanging or mounted in a manner that materially obstructs the operator's view.

(b) There is a rebuttable presumption that an object or device hanging or mounted in an operator's field of view does not materially obstruct the operator's view if:

(i) the object or device obscures a zone no larger than 25 square inches; and

(ii) extends no more than seven inches:

(A) from the extreme outside left edge of the windshield;

(B) from the extreme outside right edge of the windshield; or

(C) in aggregate as measured from the center line of the windshield.

(c) A person shall ensure that an object or device hanging or mounted as described in this Subsection (2) is used in accordance with this chapter.

Driver Visibility

