

Limitations on Liability Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor:

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transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed July 1, 2029.
- (2) Section 78B-3-421, Arbitration agreements, is repealed July 1, 2029.

~~[(3) Section 78B-4-518, Limitation on liability of employer for an employee convicted of an offense, is repealed July 1, 2025.]~~

~~[(4)] (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.~~

~~[(5)] (4) Section 78B-22-805, Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2026.~~

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

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

(1) As used in this section:

(a) "Adjudicated" means a court has entered:

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

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

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

(c) "Convicted" means:

(i) having entered an plea of guilty, a plea of no contest, or a plea of guilty with a mental condition; or

(ii) having received a judgment of guilty or a judgment of guilty with a mental condition.

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

~~[(a)] (e)(i) [Except as provided in Subsection (1)(a)(ii), "employee"] "Employee"~~

~~means an individual whom an employer hired for compensation to perform services.~~

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

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

~~(i) automotive repair and maintenance;~~

~~(ii) construction;~~

- (iii) culinary arts;
- (iv) manufacturing;
- (v) oil, gas, or mining;
- (vi) retail sale of goods~~[-or services]~~; or
- (vii) transportation of freight, merchandise, or other property by a commercial vehicle.

(g) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(h) "Negligent hiring" means the failure to exercise reasonable care in hiring or retaining an employee.

(i) "Sexual offense" means an offense described in:

- (i) Title 76, Chapter 5, Part 4, Sexual Offenses;
- (ii) Title 76, Chapter 5b, Sexual Exploitation Act;
- (iii) Section 76-7-102, incest;
- (iv) Section 76-9-702, lewdness; or
- (v) Section 76-9-702.1, sexual battery.

(j) "Substance abuse offense" means:

- (i) an offense described in Section 41-6a-502 for driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration; or
- (ii) an offense described in Section 58-37-8.

(k) "Violent offense" means an offense involving:

- (i) violence or physical harm;
- (ii) a threat of violence or physical harm; or
- (iii) an attempt to commit an offense involving violence or physical harm.

(2) A cause of action may not be brought against an employer for [~~negligently~~] the negligent hiring of an employee that is based solely on evidence that the employee has been previously convicted or adjudicated in this state or in another jurisdiction of an offense.

(3) Subsection (2) does not preclude a cause of action for negligent hiring of an employee if the employer knew, or should have known, about the employee's prior conviction or adjudication and due to the employee's prior conviction or adjudication:

- (a) the employer violated state or federal law by hiring or continuing to employ the employee; or
- (b) the employer's hiring of the employee constitutes willful misconduct or gross negligence.

- (4) The protections provided to an employer under this section do not apply in a cause of action concerning:
- (a) the misuse of funds or property of a person other than the employer if:
 - ~~[(a)]~~ (i) on the date that the employee was hired by the employer, the employee had been previously convicted or adjudication of an offense that includes fraud or the misuse of funds as an element of the offense; and
 - ~~[(b)]~~ (ii) it was foreseeable that the position for which the employee was hired would involve duties in managing funds or property[-] ;
 - (b) a sexual offense, or a violent offense, committed by an employee if:
 - (i) the employee was previously convicted or adjudicated in this state or another jurisdiction of a sexual offense or violent offense;
 - (ii) the position for which the employee was hired brings the employee into contact with another individual; and
 - (iii) the employee would present a serious threat of harm to another individual due to the employee's prior conviction or adjudication;
 - (c) an offense committed by an employee involving a motor vehicle if:
 - (i) the employee operates a motor vehicle as part of the employee's employment; and
 - (ii) the employee was previously convicted or adjudicated in this state or another jurisdiction of an offense involving a motor vehicle; or
 - (d) unless the employer instituted a reasonable drug or alcohol testing program to ensure the sobriety of the employee, an offense committed by an employee involving a substance abuse offense if the employee was previously convicted or adjudicated in this state or another jurisdiction of an offense involving drugs or alcohol.
- (5) In determining whether a drug or alcohol testing program is reasonable under Subsection (4)(d), the court shall consider:
- (a) the length of time that the employee was sober before the commission of the substance abuse offense;
 - (b) whether the employer has given the employee access to:
 - (i) alcohol or drugs; or
 - (ii) any equipment that would place another individual at risk of harm; and
 - (c) any other factor that the court considers relevant.
- ~~[(5)]~~ (6) Section 63G-7-301 does not waive any immunity provided under this section for an employer that is a governmental entity or an employee of a governmental entity as those terms are defined in Section 63G-7-102.

134 [~~(6)~~] (7) This section does not:
135 (a) create a cause of action; or
136 (b) expand an existing cause of action.
137 Section 3. **Effective date.**
138 This bill takes effect on May 7, 2025.