

Effective 7/1/2026

76-5-207 Automobile homicide -- Penalties -- Evidence.

- (1)
 - (a) As used in this section:
 - (i) "Controlled substance" means the same as that term is defined in Section 58-37-101.
 - (ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).
 - (iii) "Drug" means:
 - (A) a controlled substance;
 - (B) a drug as defined in Section 58-37-101; or
 - (C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.
 - (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.
 - (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits automobile homicide if the actor:
 - (a)
 - (i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual; and
 - (ii)
 - (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
 - (B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or
 - (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or
 - (b)
 - (i) operates a vehicle in a criminally negligent manner causing death to another; and
 - (ii) has in the actor's body any measurable amount of a controlled substance.
- (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:
 - (a) a second degree felony, punishable by a term of imprisonment of not less than five years nor more than 15 years; and
 - (b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.
- (4) An actor is not guilty of a violation of automobile homicide under Subsection (2)(b) if:
 - (a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;
 - (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
 - (c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-109 if:
 - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113; and
 - (ii) the substance was administered to the actor by the medical researcher.
- (5)
 - (a) A judge imposing a sentence under this section may consider:
 - (i) the adult sentencing and supervision length guidelines, as defined in Section 75E-4-101;
 - (ii) the defendant's history;

- (iii) the facts of the case;
 - (iv) aggravating and mitigating factors; or
 - (v) any other relevant fact.
- (b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.
- (c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.
- (d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).
- (e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.
- (f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.
- (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.
- (6) If, when imposing a sentence under this section, the court finds that it is in the interest of justice to suspend the imposition of prison, the court shall detail the finding on the record, including why a suspended prison sentence is in the interest of justice.
- (7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less than three years nor more than 15 years if the court details on the record why it is in the interest of justice.
- (8)
 - (a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.
 - (b) If a court designates a person as an interdicted person as described in Subsection (8)(a), the court shall:
 - (i) require the person to surrender the person's Utah identification card or Utah driver license;
 - (ii) notify the Driver License Division that the person is an interdicted person; and
 - (iii) provide the person's identification card or driver license to the Driver License Division.
- (9) If a minor who is under 18 years old is found by a court to have violated Subsection (2)(b), the court may order the minor to complete:
 - (a) a screening as defined in Section 41-6a-501;
 - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9) (a) indicates that an assessment is appropriate; and
 - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).

Amended by Chapter 291, 2026 General Session