

Representative Carl R. Saunders proposes to substitute the following bill:

**PENALTIES FOR UNDER AGE POSSESSION
OF TOBACCO**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Carl R. Saunders

This act modifies the Judicial Code and the Driver Licensing Act. This act provides for the suspension of driving privileges for the illegal purchase or possession of tobacco by an under age person if the offense is a second or subsequent offense. This act makes technical amendments.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53-3-219, as last amended by Chapter 13, Laws of Utah 1998

76-10-105, as last amended by Chapters 41 and 240, Laws of Utah 1998

78-3a-506, as repealed and reenacted by Chapter 365, Laws of Utah 1997

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

Section 1. Section **53-3-219** is amended to read:

53-3-219. Suspension of minor's driving privileges.

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32A-12-209, Subsection 76-9-701(1), [or] Section 78-3a-506, or Section 76-10-105.

(a) Upon receipt of the first order suspending a person's driving privileges, the division shall impose a suspension for 90 days or, if the person is under the age of eligibility for a driver license, deny application for a driver license for the first 90 days following the date of eligibility.

(b) Upon receipt of a second order suspending a person's driving privileges, the division shall impose a suspension for six months or, if the person is under the age of eligibility for a driver



26 license, deny application for a driver license for the first six months following the date of
27 eligibility.

28 (c) Upon receipt of a third or subsequent order suspending a person's driving privileges,
29 the division shall impose a suspension for one year or, if the person is under the age of eligibility
30 for a driver license, deny application for a driver license for one year beginning on the date of
31 eligibility.

32 (d) Notwithstanding the provisions of this section, the periods of time for a license
33 suspended under Section 76-10-105 shall be in accordance with Subsections 76-10-105(1)(b) and
34 (2)(b).

35 (2) After reinstatement of the license under Subsection (1)(a), a report authorized under
36 Section 53-3-104 may not contain evidence of the suspension of a minor's license under this
37 section if he has not been convicted of any other offense for which the suspension under
38 Subsection (1)(a) may be extended.

39 Section 2. Section **76-10-105** is amended to read:

40 **76-10-105. Buying or possessing cigars, cigarettes, or tobacco by minors -- Penalty**
41 **-- Compliance officer authority -- Juvenile court jurisdiction.**

42 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in his possession
43 any cigar, cigarette, or tobacco in any form is guilty of a class C misdemeanor and subject to:

44 (a) (i) a minimum fine or penalty of \$50; or

45 [~~(b)~~] (ii) participation in a court-approved tobacco education program, which may include
46 a participation fee[-]; and

47 (b) if the offense is a second or subsequent offense, suspension of driving privileges in
48 accordance with Section 53-3-219, except that the periods of suspension for first, second, and
49 subsequent offenses shall be two months, four months, and six months, respectively.

50 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in his
51 possession any cigar, cigarette, or tobacco in any form is subject to the jurisdiction of the Juvenile
52 Court and:

53 (a) (i) a minimum fine or penalty of \$50; or

54 [~~(b)~~] (ii) participation in a court-approved tobacco education program, which may include
55 a participation fee[-]; and

56 (b) if the offense is a second or subsequent offense, suspension of driving privileges in

57 accordance with Section 78-3a-506, except that the periods of suspension for first, second, and
 58 subsequent offenses shall be two months, four months, and six months, respectively.

59 (3) (a) Suspension of driving privileges under Subsections (1) or (2) may be waived if:

60 (i) the person has not previously participated in a court-approved tobacco education
 61 program and agrees to do so; or

62 (ii) the person is under 15 years of age ~~h~~ **[and the court determines that a disposition other**
 63 **than suspension of driving privileges is in the best interest of the person] ~~h~~ .**

64 (b) A suspension of driving privileges may be reimposed if the person fails to complete
 65 the court-approved tobacco education program agreed to under Subsection (3)(a)(i).

66 (c) Driving privileges suspended under Subsections (1) or (2) shall be restored
 67 immediately to any person who demonstrates to the satisfaction of the court imposing the
 68 suspension that the person has not used tobacco for 30 consecutive days.

69 (i) Acceptable methods of demonstrating non-use include chemical testing and the use of
 70 sworn statements by one or more witnesses.

71 (ii) Unless the court orders otherwise, costs incurred to demonstrate non-use shall be paid
 72 for by the person seeking a restoration of driving privileges.

73 ~~[(3)]~~ (4) A compliance officer appointed by a board of education under Section 53A-3-402
 74 may issue citations for violations of this section committed on school property. Cited violations
 75 shall be reported to the appropriate juvenile court.

76 Section 3. Section **78-3a-506** is amended to read:

77 **78-3a-506. Suspension of license for certain offenses.**

78 (1) This section applies to minors who are at least 13 years of age when found by the court
 79 to be within its jurisdiction by the commission of any offense under Section 32A-12-209, 58-37-8,
 80 or ~~[32A-12-209]~~ 76-10-105, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, Title 58, Chapter
 81 37b, Imitation Controlled Substances, or Subsection 76-9-701(1).

82 (2) If the court hearing the case determines that the minor committed an offense under
 83 Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver
 84 License Division of the Department of Public Safety an order to suspend that minor's driving
 85 privileges.

86 (3) If the court hearing the case determines that the minor violated Section 32A-12-209
 87 or Subsection 76-9-701(1), and the violation is the minor's:

- 88 (a) first violation, the court may suspend the minor's driving privileges; or
89 (b) second or subsequent violation, the court shall suspend the minor's driving privileges.

90 (4) If the court hearing the case determines that the minor committed an offense under
91 Section 76-10-105, and the offense is the minor's second or subsequent offense under that section,
92 the court shall suspend the minor's driving privileges in accordance with Section 76-10-105.

93 [~~4~~] (5) When a court has issued an order suspending a minor's driving privileges for a
94 violation of Section 32A-12-209 [~~or~~], 58-37-8, or 76-10-105, Title 58, Chapter 37a or 37b, or
95 Subsection 76-9-701(1), the minor's license shall be suspended under Section 53-3-219.

96 [~~5~~] (6) When the Department of Public Safety receives the arrest or conviction record
97 of a person for a driving offense committed while his license is suspended under this section, the
98 department shall extend the suspension for a like period of time.