

? Approved for Filing: ECM ?

? 01-02-01 5:25 PM ?

**PENALTIES FOR TRAFFIC OFFENSES**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Glenn L. Way**

**This act amends the Motor Vehicles Code penalty provisions by reducing certain traffic offenses from class C misdemeanors to infractions. The act also amends trial by jury provisions to clarify that there is no jury trial for infractions.**

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

AMENDS:

**41-6-12**, as last amended by Chapter 60, Laws of Utah 1993

**41-6-19**, as last amended by Chapter 138, Laws of Utah 1987

**41-6-52.7**, as enacted by Chapter 223, Laws of Utah 1998

**41-6-53.5**, as last amended by Chapter 165, Laws of Utah 1999

**41-6-63.30**, as enacted by Chapter 16, Laws of Utah 2000

**41-6-90.5**, as enacted by Chapter 245, Laws of Utah 1998

**41-6-100.10**, as last amended by Chapter 29, Laws of Utah 2000

**41-6-114.1**, as last amended by Chapters 33 and 241, Laws of Utah 1991

**41-6-147**, as last amended by Chapter 94, Laws of Utah 1992

**41-6-149**, as last amended by Chapter 233, Laws of Utah 1999

**41-6-166**, as last amended by Chapter 30, Laws of Utah 1992

**41-6-167**, as last amended by Chapter 282, Laws of Utah 1998

**41-6-168**, as last amended by Chapters 183 and 187, Laws of Utah 1983

**41-6-172**, as last amended by Chapter 282, Laws of Utah 1998

**41-8-2**, as enacted by Chapter 28, Laws of Utah 1999

**41-22-17**, as last amended by Chapter 241, Laws of Utah 1991

**78-46-5**, as repealed and reenacted by Chapter 44, Laws of Utah 1996

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

**\*HB0039\***

28 Section 1. Section **41-6-12** is amended to read:

29 **41-6-12. Violations of chapter -- Penalties.**

30 [~~(1)~~] A violation of any provision of this chapter is [~~a class C misdemeanor~~] an infraction,  
31 unless otherwise provided.

32 [~~(2) A violation of any provision of Articles 2, 11, 15, and 17 of this chapter is an~~  
33 ~~infraction, unless otherwise provided.]~~

34 Section 2. Section **41-6-19** is amended to read:

35 **41-6-19. Removal of plants or other obstructions impairing view -- Notice to owner**  
36 **-- Penalty.**

37 (1) The owner of real property shall remove from his property any tree, plant, shrub, or  
38 other obstruction, or part of it, which, by obstructing the view of any operator, constitutes a traffic  
39 hazard.

40 (2) When the Department of Transportation or any local authority determines upon the  
41 basis of an engineering and traffic investigation that a traffic hazard exists, it shall notify the owner  
42 and order that the hazard be removed within ten days.

43 (3) The failure of the owner to remove the traffic hazard within ten days is [~~a class C~~  
44 ~~misdemeanor~~] an infraction.

45 Section 3. Section **41-6-52.7** is amended to read:

46 **41-6-52.7. Radar jamming devices and jamming radar prohibited -- Defense --**  
47 **Exceptions -- Penalties.**

48 (1) As used in this section, "radar jamming device" means any instrument or mechanism  
49 designed or intended to interfere with the radar or any laser that is used by law enforcement  
50 personnel to measure the speed of a motor vehicle on a highway.

51 (2) (a) A person may not operate a motor vehicle on a highway with a radar jamming  
52 device in the motor vehicle.

53 (b) A person may not knowingly use a radar jamming device to interfere with the radar  
54 signals or lasers used by law enforcement personnel to measure the speed of a motor vehicle on  
55 a highway.

56 (3) It is an affirmative defense to a charge under Subsection (2)(a) that the radar jamming  
57 device was in an inoperative condition or could not be readily used at the time of the arrest or  
58 citation.

59 (4) This section does not apply to law enforcement personnel acting in their official  
60 capacity.

61 (5) A person who violates this section is guilty of [~~a class C misdemeanor~~] an infraction.

62 Section 4. Section **41-6-53.5** is amended to read:

63 **41-6-53.5. Left lane restrictions -- Exceptions -- Other lane restrictions -- Penalties.**

64 (1) As used in this section "general purpose lane" means a highway lane open to vehicular  
65 traffic except:

66 (a) a high occupancy vehicle (HOV) lane; and

67 (b) an auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway  
68 off-ramp.

69 (2) A person may not operate a vehicle in the left most general purpose lane of a highway  
70 or section of a highway which has three or more general purpose lanes in the same direction if the  
71 person's:

72 (a) vehicle is drawing a trailer or semitrailer; or

73 (b) vehicle or combination of vehicle has a gross vehicle weight of 12,001 or more pounds.

74 (3) Subsection (2) does not apply to a person operating a vehicle who is:

75 (a) preparing to turn left or taking a highway split or exit on the left;

76 (b) responding to emergency conditions;

77 (c) avoiding actual or potential traffic moving onto the highway from an acceleration or  
78 merging lane; or

79 (d) following direction signs that direct use of a designated lane.

80 (4) (a) The Department of Transportation or local authorities may designate a specific lane  
81 or lanes of travel for any type of vehicle on a highway or portion of a highway under their  
82 respective jurisdiction for the:

83 (i) safety of the public;

84 (ii) efficient maintenance of a highway; or

85 (iii) use of high occupancy vehicles.

86 (b) The lane designation under Subsection (4)(a) is effective when appropriate signs giving  
87 notice are erected on the highway or portion of the highway.

88 (5) A person who operates a vehicle in violation of Subsection (2) or in violation of the  
89 restrictions made under Subsection (4) is guilty of [~~a class C misdemeanor~~] an infraction.

90 Section 5. Section 41-6-63.30 is amended to read:

91 41-6-63.30. Definitions -- Gore area -- Driving over gore prohibited -- Exceptions --

92 Penalties.

93 (1) As used in this section, "gore area" means the area delineated by two solid white lines  
94 that is between a continuing lane of a through roadway and a lane used to enter or exit the  
95 continuing lane including similar areas between merging or splitting highways.

96 (2) (a) A person may not operate a vehicle over, across, or within any part of a gore area.

97 (b) Subsection (2)(a) does not apply to:

98 (i) a person operating a vehicle that is disabled; or

99 (ii) an operator of an authorized emergency vehicle under conditions described under

100 Section 41-6-14.

101 (3) A person who violates Subsection (2) is guilty of [~~class C misdemeanor~~] an infraction.

102 Section 6. Section 41-6-90.5 is amended to read:

103 41-6-90.5. Motor assisted scooters -- Conflicting provisions -- Restrictions --

104 Penalties.

105 (1) (a) Except as otherwise provided in this section, a motor assisted scooter is subject to  
106 the provisions under this chapter for a bicycle, moped, or a motor-driven cycle.

107 (b) A person operating a motor assisted scooter is not subject to the provisions related to:

108 (i) seating positions under Section 41-6-107; and

109 (ii) required lights, horns, and mirrors under Section 41-6-154.50.

110 (2) A person under 16 years of age may not operate a motor assisted scooter using the  
111 motor unless the person is under the direct supervision of the person's parent or guardian.

112 (3) A person may not operate a motor assisted scooter:

113 (a) in a public parking structure;

114 (b) on public property posted as an area prohibiting skateboards;

115 (c) on a highway consisting of a total of four or more lanes designated for regular vehicular  
116 traffic;

117 (d) on a highway with a posted speed limit greater than 25 miles per hour; or

118 (e) that has been structurally altered from the original manufacturer's design.

119 (4) Except where posted or prohibited by rule or local ordinance, a motor assisted scooter  
120 is considered a nonmotorized vehicle if it is being used with the motor turned off.

121 (5) A person who violates this section is guilty of [~~a class C misdemeanor~~] an infraction.

122 Section 7. Section **41-6-100.10** is amended to read:

123 **41-6-100.10. School bus -- Signs and light signals -- Flashing amber lights -- Flashing**  
124 **red lights -- Passing school bus -- Duty to stop -- Travel in opposite direction -- Penalties.**

125 (1) Every school bus, when operated for the transportation of school children, shall:

126 (a) bear upon the front and rear of the bus a plainly visible sign containing the words  
127 "school bus" in letters not less than eight inches in height, which shall be removed or covered  
128 when the vehicle is not in use for the transportation of school children; and

129 (b) be equipped with alternating flashing amber and red light signals visible from the front  
130 and rear, of a type approved and mounted as prescribed by the department.

131 (2) The operator of any vehicle upon a highway, upon meeting or overtaking any school  
132 bus equipped with signals required under this section which is displaying alternating flashing:

133 (a) amber warning light signals, shall slow his vehicle, but may proceed past the school  
134 bus using due care and caution at a speed not greater than specified in Subsection 41-6-46(2) for  
135 school zones for the safety of the school children that may be in the vicinity; or

136 (b) red light signals visible from the front or rear shall stop immediately before reaching  
137 the bus and may not proceed until the flashing red light signals cease operation.

138 (3) The operator of a vehicle need not stop upon meeting or passing a school bus  
139 displaying alternating flashing red light signals if the school bus is traveling in the opposite  
140 direction when:

141 (a) traveling upon a divided highway;

142 (b) the bus is stopped at an intersection or other place controlled by a traffic-control signal  
143 or by a peace officer; or

144 (c) upon a highway of five or more lanes, which may include a left-turn lane or two-way  
145 left turn lane.

146 (4) (a) The operator of a school bus shall operate alternating flashing red light signals at  
147 all times when children are unloading from a school bus to cross a highway, or when a school bus  
148 is stopped for the purpose of loading children who must cross a highway to board the bus, or at any  
149 other time when it would be hazardous for vehicles to proceed past the stopped school bus.

150 (b) The alternating flashing red light signals may not be operated except when the school  
151 bus is stopped for loading or unloading school children or for any emergency purpose.

152 (5) The operator of a school bus being operated on a highway shall have the headlights of  
153 the school bus lighted.

154 (6) (a) A violation of Subsection (2) or (3) is [~~a class C misdemeanor~~] an infraction and  
155 the minimum fine shall be:

156 (i) \$100 for a first offense;

157 (ii) \$200 for a second offense within three years of a previous conviction or bail forfeiture;

158 and

159 (iii) \$500 for a third and subsequent offense within three years of a previous conviction  
160 or bail forfeiture.

161 (b) A violation of Subsection (5) is [~~a class C misdemeanor~~] an infraction and the fine  
162 shall be \$50.

163 (c) The court may order the person to perform compensatory service in lieu of the fine or  
164 any portion of the fine if the court makes the reasons for the waiver part of the record.

165 (7) The Driver License Division shall develop and implement a record system to  
166 distinguish:

167 (a) a conviction or bail forfeiture under this section from other convictions; and

168 (b) between a first and subsequent conviction or bail forfeiture under this section.

169 Section 8. Section **41-6-114.1** is amended to read:

170 **41-6-114.1. Penalty for littering.**

171 (1) Any person violating any of the provisions of Section 41-6-114 is guilty of [~~a class C~~  
172 ~~misdemeanor~~] an infraction and shall be fined not less than \$100 for each violation.

173 (2) The sentencing judge may impose as additional penalties the requirements that the  
174 offender devote at least four hours in cleaning up:

175 (a) litter caused by him; and

176 (b) existing litter from a safe area designated by the sentencing judge.

177 Section 9. Section **41-6-147** is amended to read:

178 **41-6-147. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control**  
179 **devices.**

180 (1) (a) Every vehicle shall be equipped, maintained, and operated to prevent excessive or  
181 unusual noise.

182 (b) Every motor vehicle shall at all times be equipped with a muffler or other effective

183 noise suppressing system in good working order and in constant operation. A person may not use  
184 a muffler cut-out, bypass, or similar device.

185 (2) (a) The engine and power mechanism of every gasoline-powered motor vehicle may  
186 not emit visible contaminants during operation except while the engine is being brought up to the  
187 recommended operating temperature.

188 (b) Diesel engines manufactured on or after January 1, 1973, may not emit visible  
189 contaminants of a shade or density darker than 20% opacity, except while the engine is being  
190 brought up to the recommended operating temperature.

191 (c) Diesel engines manufactured before January 1, 1973, may not emit visible  
192 contaminants of a shade or density darker than 40% opacity, except while the engine is being  
193 brought up to the recommended operating temperature.

194 (d) Violation of this subsection is [~~a class C misdemeanor~~] an infraction.

195 (3) (a) Every motor vehicle equipped by a manufacturer with air pollution control devices  
196 must have the devices in good working order and in constant operation.

197 (b) An air pollution control device may be substituted for the manufacturer's original  
198 device if the device is at least as effective in the reduction of emissions from the vehicle motor as  
199 the air pollution control devices furnished by the manufacturer of the vehicle as standard  
200 equipment for purposes of the first sale at retail of vehicles of the same class.

201 (c) It is a class B misdemeanor to render inoperable on any motor vehicle air pollution  
202 control devices.

203 (4) Subsection (3) does not apply to motor vehicles altered and modified to use clean fuel  
204 when the emissions from the modified or altered vehicle are at levels that comply with existing  
205 state or federal standards for the emission of pollutants from motor vehicles.

206 (5) As used in this section, "clean fuel" means:

207 (a) propane, compressed natural gas, or electricity;

208 (b) other fuel the Air Quality Board determines to be at least as effective as fuels under  
209 Subsection (a) in reducing air pollution; or

210 (c) other fuel that meets the clean fuel vehicle standards in the federal Clean Air Act  
211 Amendments of 1990, Title II.

212 Section 10. Section **41-6-149** is amended to read:

213 **41-6-149. Windshields and windows -- Tinting -- Obstructions reducing visibility --**

214 **Wipers -- Prohibitions.**

215 (1) Except as provided in Subsections (2) and (3), a person may not operate a motor  
216 vehicle with:

217 (a) a windshield that allows less than 70% light transmittance;

218 (b) a front side window that allows less than 43% light transmittance;

219 (c) any window, other than the windshield or a front side window, that allows less than  
220 28% light transmittance;

221 (d) any windshield or window that is composed of, covered by, or treated with any material  
222 or component that presents a metallic or mirrored appearance; or

223 (e) any sign, poster, or other nontransparent material on the windshield, sidewings, side or  
224 rear windows of the motor vehicle except:

225 (i) a certificate or other paper required to be so displayed by law; or

226 (ii) the vehicle's identification number displayed or etched in accordance with rules made  
227 by the department.

228 (2) Nontransparent materials may be used:

229 (a) along the top edge of the windshield in an area not to exceed three inches to right or  
230 left of center of the windshield if the materials do not extend downward more than four inches  
231 from the top edge of the windshield;

232 (b) in the lower left-hand corner of the windshield provided they do not extend more than  
233 three inches to the right of the left edge or more than four inches above the bottom edge of the  
234 windshield; or

235 (c) in the lower left-hand corner of the rear window provided they do not extend more than  
236 three inches to the right of the left edge or more than four inches above the bottom edge of the  
237 window.

238 (3) A windshield or other window is considered to comply with the requirements of  
239 Subsection (1) if the windshield or other window meets the federal statutes and regulations for  
240 motor vehicle window composition, covering, light transmittance, and treatment.

241 (4) Except for material on the windshield or rear window used in compliance with  
242 Subsection (2), a motor vehicle with tinting on any window shall be equipped with rear-view  
243 mirrors mounted on the left side and on the right side of the motor vehicle to reflect to the driver  
244 a view of the highway to the rear of the motor vehicle.



245 (5) (a) The windshield on every motor vehicle shall be equipped with a device for cleaning  
 246 rain, snow, or other moisture from the windshield. The device shall be constructed to be operated  
 247 by the driver.

248 (b) Every windshield wiper on a motor vehicle shall be maintained in good working order.

249 (6) (a) A person may not have for sale, sell, offer for sale, install, cover, or treat a  
 250 windshield or window in violation of this section.

251 (b) A person who violates this section is guilty of [~~a class C misdemeanor~~] an infraction.

252 (7) Notwithstanding this section, any person subject to the federal Motor Vehicle Safety  
 253 Standards, including motor vehicle manufacturers, distributors, dealers, importers, and repair  
 254 businesses, shall comply with the federal standards on motor vehicle window tinting.

255 Section 11. Section **41-6-166** is amended to read:

256 **41-6-166. Appearance upon arrest for misdemeanor -- Setting bond.**

257 Whenever any person is arrested for any violation of this [~~act punishable as a~~  
 258 ~~misdemeanor~~] chapter, the arrested person, for the purpose of setting bond[;] shall [~~in the~~  
 259 ~~following cases;~~] be taken without unnecessary delay before a magistrate within the county in  
 260 which the offense charged is alleged to have been committed and who has jurisdiction [~~of such~~  
 261 for the offense and who is nearest or most accessible with reference to the place where [~~said~~] the  
 262 arrest is made, in any of the following cases:

263 (1) When a person arrested demands an immediate appearance before a magistrate.

264 (2) When the person is arrested upon a charge of driving or being in actual physical control  
 265 of a vehicle while under the influence of alcohol or any drug or combination thereof as prescribed  
 266 in Section 41-6-44.

267 (3) When the person is arrested upon a charge of failure to stop in the event of an accident  
 268 causing death, personal injuries, or damage to property.

269 (4) In any other event when the person arrested refuses to give his written promise to  
 270 appear in court as hereinafter provided, or when in the discretion of the arresting officer, a written  
 271 promise to appear is insufficient.

272 Section 12. Section **41-6-167** is amended to read:

273 **41-6-167. Notice to appear in court -- Contents -- Promise to comply -- Signing --**  
 274 **Release from custody -- Official misconduct.**

275 (1) Upon any violation of this [~~act punishable as a misdemeanor~~] chapter, whenever a

276 person is immediately taken before a magistrate [~~as hereinbefore provided~~] under Section  
 277 41-6-166, the peace officer shall prepare, in triplicate or more copies, a written notice to appear  
 278 in court containing:

- 279 (a) the name and address of the person;  
 280 (b) the number, if any, of the person's operator's license;  
 281 (c) the registration number of the person's vehicle;  
 282 (d) the offense charged; and  
 283 (e) the time and place the person shall appear in court.  
 284 (2) The time specified in the notice to appear must be at least five days after the arrest of  
 285 the person unless the person demands an earlier hearing.

286 (3) The place specified in the notice to appear shall be made before a magistrate of  
 287 competent jurisdiction in the county in which the alleged violation occurred.

288 (4) (a) In order to secure release as provided in this section, the arrested person shall  
 289 promise to appear in court by signing at least one copy of the written notice prepared by the  
 290 arresting officer.

- 291 (b) The arresting officer shall immediately:  
 292 (i) deliver a copy of the notice to the person promising to appear; and  
 293 (ii) release the person arrested from custody.

294 (5) Any officer violating any of the provisions of this section shall be:

- 295 (a) guilty of misconduct in office; and  
 296 (b) subject to removal from office.

297 Section 13. Section **41-6-168** is amended to read:

298 **41-6-168. Violation of promise to appear as misdemeanor -- Appearance by counsel.**

299 [~~(a) Any~~] (1) A person who willfully [~~violating his~~] violates a written promise to appear  
 300 in court, given as provided in this [~~act~~] chapter, is guilty of a class B misdemeanor regardless of  
 301 the disposition of the charge upon which [~~he~~] the person was originally arrested.

302 (b) A written promise to appear in court may be complied with by an appearance by  
 303 counsel.

304 Section 14. Section **41-6-172** is amended to read:

305 **41-6-172. Improper disposition or cancellation of notice to appear or traffic citation**  
 306 **-- Official misconduct -- Misdemeanor.**

307 (1) It shall be unlawful and official misconduct for any peace officer or other officer or  
308 public employee to dispose of a notice to appear or of any traffic citation without the consent of  
309 the magistrate before whom the person was to appear.

310 (2) Any person who cancels or solicits the cancellation of any notice to appear or any  
311 traffic citation, in any manner other than as provided by law, [~~shall be~~] is guilty of a class B  
312 misdemeanor.

313 Section 15. Section **41-8-2** is amended to read:

314 **41-8-2. Operation of vehicle by persons under 17 during night hours prohibited --**

315 **Exceptions.**

316 (1) In addition to the provisions of Title 53, Chapter 3, Uniform Driver License Act, a  
317 person younger than 17 years of age, whether resident or nonresident of this state, may not operate  
318 a motor vehicle upon any highway of this state between the hours of 12:00 a.m. and 5:00 a.m.

319 (2) It is an affirmative defense to a charge under Subsection (1) that the person is operating  
320 a motor vehicle:

321 (a) accompanied by a licensed driver at least 21 years of age who is occupying a seat next  
322 to the driver;

323 (b) for the driver's employment, including the trip to and from the driver's residence and  
324 the driver's employment;

325 (c) to and from the driver's religion-sponsored activity or own school-sponsored activity  
326 and the driver's residence;

327 (d) on assignment of a farmer or rancher and the driver is engaged in an agricultural  
328 operation; or

329 (e) in an emergency.

330 (3) In addition to any penalties imposed under Title 53, Chapter 3, Uniform Driver License  
331 Act, a violation of this section is [~~a class C misdemeanor~~] an infraction.

332 Section 16. Section **41-22-17** is amended to read:

333 **41-22-17. Penalties for violations.**

334 (1) Unless another penalty is provided for in this chapter or elsewhere in the laws of this  
335 state, any person who violates any provision of this chapter or the rules promulgated under this  
336 chapter, upon conviction, is guilty of [~~a class C misdemeanor~~] an infraction.

337 (2) The division may revoke or suspend the registration of any off-highway vehicle whose

338 application for registration has been falsified. The owner shall surrender to the division, within  
339 15 days of suspension or revocation, any suspended or revoked certificate of registration and  
340 stickers.

341 Section 17. Section **78-46-5** is amended to read:

342 **78-46-5. Trial by jury.**

343 (1) A trial jury shall consist of:

344 (a) twelve persons in a capital case;

345 (b) eight persons in a criminal case which carries a term of incarceration of more than one  
346 year as a possible sentence for the most serious offense charged;

347 (c) six persons in a criminal case which carries a term of incarceration of more than six  
348 months but not more than one year as a possible sentence for the most serious offense charged;

349 (d) four persons in a criminal case which carries a term of incarceration of six months or  
350 less as a possible sentence for the most serious offense charged; and

351 (e) eight persons in a civil case at law except that the jury shall be four persons in a civil  
352 case for damages of less than \$20,000, exclusive of costs, interest, and attorney fees.

353 (2) Except in the trial of a capital offense, the parties may stipulate upon the record to a  
354 jury of a lesser number than established by this section.

355 (3) The verdict in a criminal case shall be unanimous. The verdict in a civil case shall be  
356 by not less than three-fourths of the jurors.

357 (4) There is no jury in the trial of small claims cases.

358 (5) There is no jury in the adjudication of a minor charged with what would constitute a  
359 crime if committed by an adult.

360 (6) There is no jury in the trial of an infraction.

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**Legislative Review Note**  
**as of 12-12-00 4:06 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**