

1 **PENALTIES FOR UNDER AGE POSSESSION**
2 **OF TOBACCO**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Carl R. Saunders**

6 **This act modifies the Judicial Code and the Driver Licensing Act. This act provides for the**
7 **suspension of driving privileges for the illegal purchase or possession of tobacco if the offense**
8 **is a second or subsequent offense. This act makes technical amendments.**

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

10 AMENDS:

11 **53-3-219**, as last amended by Chapter 13, Laws of Utah 1998

12 **76-10-105**, as last amended by Chapters 41 and 240, Laws of Utah 1998

13 **78-3a-506**, as repealed and reenacted by Chapter 365, Laws of Utah 1997

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

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

16 **53-3-219. Suspension of minor's driving privileges.**

17 (1) The division shall immediately suspend all driving privileges of any person upon
18 receipt of an order suspending driving privileges under Section 32A-12-209, Subsection
19 76-9-701(1), Section 76-10-105, or Section 78-3a-506.

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

23 (b) Upon receipt of a second order suspending a person's driving privileges, the division
24 shall impose a suspension for six months or, if the person is under the age of eligibility for a driver
25 license, deny application for a driver license for the first six months following the date of
26 eligibility.

27 (c) Upon receipt of a third or subsequent order suspending a person's driving privileges,

28 the division shall impose a suspension for one year or, if the person is under the age of eligibility
29 for a driver license, deny application for a driver license for one year beginning on the date of
30 eligibility.

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

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

36 **76-10-105. Buying or possessing cigars, cigarettes, or tobacco by minors -- Penalty**
37 **-- Compliance officer authority -- Juvenile court jurisdiction.**

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

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

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

43 (b) if the offense is a second or subsequent offense, suspension of driving privileges in
44 accordance with Section 53-3-219.

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

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

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

51 (b) if the offense is a second or subsequent offense, suspension of driving privileges in
52 accordance with Section 78-3a-506.

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

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

57 **78-3a-506. Suspension of license for certain offenses.**

58 (1) This section applies to minors who are at least 13 years of age when found by the court

59 to be within its jurisdiction by the commission of any offense under Section 32A-12-209, 58-37-8,
60 or [~~32A-12-209~~] 76-10-105, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, Title 58, Chapter
61 37b, Imitation Controlled Substances, or Subsection 76-9-701(1).

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

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

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

70 (4) If the court hearing the case determines that the minor committed an offense under
71 Section 76-10-105, and the offense is the minor's second or subsequent offense under that section,
72 the court shall suspend the minor's driving privileges.

73 [~~(4)~~] (5) When a court has issued an order suspending a minor's driving privileges for a
74 violation of Section 32A-12-209 [~~or~~], 58-37-8, or 76-10-105, Title 58, Chapter 37a or 37b, or
75 Subsection 76-9-701(1), the minor's license shall be suspended under Section 53-3-219.

76 [~~(5)~~] (6) When the Department of Public Safety receives the arrest or conviction record
77 of a person for a driving offense committed while his license is suspended under this section, the
78 department shall extend the suspension for a like period of time.

Legislative Review Note
as of 1-24-01 11:02 AM

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

Office of Legislative Research and General Counsel