

PATTERN OF UNLAWFUL ACTIVITY ACT

AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Ty McCartney

LONG TITLE

General Description:

This bill modifies the definitions provision of the Pattern of Unlawful Activity Act in the Utah Criminal Code.

Highlighted Provisions:

This bill:

- ▶ adds unemployment insurance fraud to the crimes included in the definition of unlawful activity in the Pattern of Unlawful Activity Act; and
- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-1602, as last amended by Chapters 26 and 79, Laws of Utah 2003

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

Section 1. Section **76-10-1602** is amended to read:

76-10-1602. Definitions.

As used in this part:



28 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
29 business trust, association, or other legal entity, and any union or group of individuals
30 associated in fact although not a legal entity, and includes illicit as well as licit entities.

31 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
32 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
33 have the same or similar purposes, results, participants, victims, or methods of commission, or
34 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
35 demonstrate continuing unlawful conduct and be related either to each other or to the
36 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
37 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
38 activity as defined by this part shall have occurred within five years of the commission of the
39 next preceding act alleged as part of the pattern.

40 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
41 interest in property, including state, county, and local governmental entities.

42 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
43 command, encourage, or intentionally aid another person to engage in conduct which would
44 constitute any offense described by the following crimes or categories of crimes, or to attempt
45 or conspire to engage in an act which would constitute any of those offenses, regardless of
46 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
47 or a felony:

48 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
49 Recording Practices Act;

50 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
51 Code, Sections 19-1-101 through 19-7-109;

52 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
53 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Chapter 13, Wildlife
54 Resources Code of Utah, or Section 23-20-4;

55 (d) false claims for medical benefits, kickbacks, and any other act prohibited by False
56 Claims Act, Sections 26-20-1 through 26-20-12;

57 (e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal
58 Offenses;

- 59 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
60 Land Sales Practices Act;
- 61 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
62 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
63 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
64 Clandestine Drug Lab Act;
- 65 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
66 Securities Act;
- 67 (i) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah
68 Procurement Code;
- 69 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 70 (k) a terroristic threat, Section 76-5-107;
- 71 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 72 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 73 (n) sexual exploitation of a minor, Section 76-5a-3;
- 74 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 75 (p) causing a catastrophe, Section 76-6-105;
- 76 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 77 (r) burglary of a vehicle, Section 76-6-204;
- 78 (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 79 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 80 (u) theft, Section 76-6-404;
- 81 (v) theft by deception, Section 76-6-405;
- 82 (w) theft by extortion, Section 76-6-406;
- 83 (x) receiving stolen property, Section 76-6-408;
- 84 (y) theft of services, Section 76-6-409;
- 85 (z) forgery, Section 76-6-501;
- 86 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- 87 (bb) deceptive business practices, Section 76-6-507;
- 88 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
89 criticism of goods, Section 76-6-508;

- 90 (dd) bribery of a labor official, Section 76-6-509;
- 91 (ee) defrauding creditors, Section 76-6-511;
- 92 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 93 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
- 94 (hh) bribery or threat to influence contest, Section 76-6-514;
- 95 (ii) making a false credit report, Section 76-6-517;
- 96 (jj) criminal simulation, Section 76-6-518;
- 97 (kk) criminal usury, Section 76-6-520;
- 98 (ll) false or fraudulent insurance claim, Section 76-6-521;
- 99 (mm) computer crimes, Section 76-6-703;
- 100 (nn) identity fraud, Section 76-6-1102;
- 101 (oo) sale of a child, Section 76-7-203;
- 102 (pp) bribery to influence official or political actions, Section 76-8-103;
- 103 (qq) threats to influence official or political action, Section 76-8-104;
- 104 (rr) receiving bribe or bribery by public servant, Section 76-8-105;
- 105 (ss) receiving bribe or bribery for endorsement of person as public servant, Section
- 106 76-8-106;
- 107 (tt) official misconduct, Sections 76-8-201 and 76-8-202;
- 108 (uu) obstruction of justice, Section 76-8-306;
- 109 (vv) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 110 (ww) false or inconsistent material statements, Section 76-8-502;
- 111 (xx) false or inconsistent statements, Section 76-8-503;
- 112 (yy) written false statements, Section 76-8-504;
- 113 (zz) tampering with a witness, retaliation against a witness or informant, or bribery,
- 114 Section 76-8-508;
- 115 (aaa) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 116 (bbb) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 117 76-8-1205;
- 118 (ccc) intentionally or knowingly causing one animal to fight with another, Subsection
- 119 76-9-301(1)(f);
- 120 (ddd) possession, use, or removal of explosives, chemical, or incendiary devices or

121 parts, Section 76-10-306;
122 (eee) delivery to common carrier, mailing, or placement on premises of an incendiary
123 device, Section 76-10-307;
124 (fff) possession of a deadly weapon with intent to assault, Section 76-10-507;
125 (ggg) unlawful marking of pistol or revolver, Section 76-10-521;
126 (hhh) alteration of number or mark on pistol or revolver, Section 76-10-522;
127 (iii) forging or counterfeiting trademarks, trade name, or trade device, Section
128 76-10-1002;
129 (jjj) selling goods under counterfeited trademark, trade name, or trade devices, Section
130 76-10-1003;
131 (kkk) sales in containers bearing registered trademark of substituted articles, Section
132 76-10-1004;
133 (lll) selling or dealing with article bearing registered trademark or service mark with
134 intent to defraud, Section 76-10-1006;
135 (mmm) gambling, Section 76-10-1102;
136 (nnn) gambling fraud, Section 76-10-1103;
137 (ooo) gambling promotion, Section 76-10-1104;
138 (ppp) possessing a gambling device or record, Section 76-10-1105;
139 (qqq) confidence game, Section 76-10-1109;
140 (rrr) distributing pornographic material, Section 76-10-1204;
141 (sss) inducing acceptance of pornographic material, Section 76-10-1205;
142 (ttt) dealing in harmful material to a minor, Section 76-10-1206;
143 (uuu) distribution of pornographic films, Section 76-10-1222;
144 (vvv) indecent public displays, Section 76-10-1228;
145 (www) prostitution, Section 76-10-1302;
146 (xxx) aiding prostitution, Section 76-10-1304;
147 (yyy) exploiting prostitution, Section 76-10-1305;
148 (zzz) aggravated exploitation of prostitution, Section 76-10-1306;
149 (aaaa) communications fraud, Section 76-10-1801;
150 (bbbb) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19,
151 Money Laundering and Currency Transaction Reporting Act;

152 (cccc) any act prohibited by the criminal provisions of the laws governing taxation in
153 this state; [~~and~~]
154 (dddd) unemployment insurance fraud, Section 76-8-1301; and
155 [~~(ddd)~~ (eeee) any act illegal under the laws of the United States and enumerated in
156 Title 18, Section 1961 (1)(B), (C), and (D) of the United States Code.

Legislative Review Note
as of 12-5-03 10:13 AM

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

Office of Legislative Research and General Counsel

Fiscal Note

Pattern of Unlawful Activity Act Amendments

19-Jan-04

Bill Number HB00734:18 PM

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst