

Renumber remaining sections accordingly.

Respectfully,

Sheldon L Killpack
Committee Chair

Voting: 5-0-1

3 SB0018.SC1.WPD msteinagel/RCN SCH/MBS 1/17/06 3:16 pm

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- (1) As used in this section, "motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.
- (2) (a) Criminal homicide is automobile homicide, a third degree felony, if the person operates a motor vehicle in a negligent manner causing the death of another and:
- (i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;
 - (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or
 - (iii) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation.
- (b) A conviction for a violation of this Subsection (2) is a second degree felony if it is subsequent to a conviction as defined in Subsection ~~{41-6a-502}~~ 41-6a-501 (2).
- (c) As used in this Subsection (2), "negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.
- (3) (a) Criminal homicide is automobile homicide, a second degree felony, if the person operates a motor vehicle in a criminally negligent manner causing the death of another and:
- (i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;
 - (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or
 - (iii) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation.
- (b) As used in this Subsection (3), "criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).
- (4) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a- 516 apply to determination and proof of blood alcohol content under this section.
- (5) Calculations of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(1).
- (6) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.
- (7) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

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January 17, 2006

Mr. President:

The Transportation and Public Utilities and Technology Committee reports a favorable recommendation on **S.B. 18, DRIVING UNDER THE INFLUENCE AMENDMENTS**, by Senator C. Walker, with the following amendments:

1. *Page 1, Lines 10 through 12:*

10 This bill modifies the Motor Vehicles Code, the State Affairs in General Code, the
11 Criminal Code, and the
12 Code of Criminal Procedure by amending provisions related to driving under the
12 influence violations.

2. *Page 2, Lines 47 through 48:*

47 63-55b-177, as enacted by Chapter 228, Laws of Utah 2004
76-5-207, as last amended by Chapter 2, Laws of Utah 2005
48 77-2a-3 (Effective 07/01/06), as last amended by Chapters 203 and 228, Laws of
Utah

3. *Page 14, Line 422:*

422 Section 77-2a-3.1 is repealed June 30, [~~2006~~] 2008.
Section 8. Section 76-5-207 is amended to read:
76-5-207. Automobile homicide.

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