

VEHICLE USE REGARDING ILLEGAL DRUGS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Jon J. Greiner

LONG TITLE

General Description:

This bill modifies Title 58, Chapter 37a, Utah Drug Paraphernalia Act, to provide that altering any property to facilitate violation of a controlled substance law is a criminal offense.

Highlighted Provisions:

This bill:

▶ provides that modifying any motor vehicle to facilitate the illegal transportation, storage, shipping, or circulation of a controlled substance is a third degree felony;
and

▶ provides that possession of a motor vehicle modified to facilitate violation of an illegal controlled substance law is a class A misdemeanor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37a-5, as enacted by Chapter 76, Laws of Utah 1981

76-10-1602, as last amended by Chapters 104, 140 and 319, Laws of Utah 2004



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

29 Section 1. Section **58-37a-5** is amended to read:

30 **58-37a-5. Unlawful acts.**

31 (1) It is ~~[unlawful]~~ a class B misdemeanor for any person to use, or to possess with
32 intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture,
33 compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain,
34 conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human
35 body in violation of this chapter. ~~[Any person who violates this subsection is guilty of a class B~~
36 ~~misdemeanor.]~~

37 (2) It is ~~[unlawful]~~ a class A misdemeanor for any person to deliver, possess with intent
38 to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug
39 paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture,
40 compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain,
41 conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human
42 body in violation of this ~~[act. Any person who violates this subsection is guilty of a class A~~
43 ~~misdemeanor.]~~ chapter.

44 (3) Any person 18 years of age or over who delivers drug paraphernalia to a person
45 under 18 years of age who is three years or more younger than the person making the delivery
46 is guilty of a third degree felony.

47 (4) It is ~~[unlawful]~~ a class B misdemeanor for any person to place in this state in any
48 newspaper, magazine, handbill, or other publication any advertisement, knowing that the
49 purpose of the advertisement is to promote the sale of drug paraphernalia. ~~[Any person who~~
50 ~~violates this subsection is guilty of a class B misdemeanor.]~~

51 (5) It is a class A misdemeanor for any person to knowingly or intentionally possess a
52 motor vehicle, as defined in Section 41-6a-102, which has been altered or modified for the
53 purpose of transporting, storing, shipping, or circulating a controlled substance in violation of
54 this chapter.

55 (6) It is a third degree felony for any person to knowingly or intentionally alter or
56 modify, or cause to be altered or modified, a motor vehicle, as defined in Section 41-6a-102,
57 for the purpose of illegally transporting, storing, shipping, or circulating a controlled substance
58 in violation of this chapter.

59 Section 2. Section **76-10-1602** is amended to read:

60 **76-10-1602. Definitions.**

61 As used in this part:

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

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

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

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

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

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

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

89 (d) false claims for medical benefits, kickbacks, and any other act prohibited by False

- 90 Claims Act, Sections 26-20-1 through 26-20-12;
- 91 (e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal
- 92 Offenses;
- 93 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
- 94 Land Sales Practices Act;
- 95 (g) any act prohibited by the criminal provisions of:
- 96 (i) Title 58, Chapter 37, Utah Controlled Substances Act~~[, or]~~;
- 97 (ii) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 98 (iii) Title 58, Chapter 37b, Imitation Controlled Substances Act~~[;]~~;
- 99 (iv) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act~~[;]~~; or
- 100 (v) Title 58, Chapter 37d, Clandestine Drug Lab Act;
- 101 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
- 102 Securities Act;
- 103 (i) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah
- 104 Procurement Code;
- 105 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 106 (k) a terroristic threat, Section 76-5-107;
- 107 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 108 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 109 (n) sexual exploitation of a minor, Section 76-5a-3;
- 110 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 111 (p) causing a catastrophe, Section 76-6-105;
- 112 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 113 (r) burglary of a vehicle, Section 76-6-204;
- 114 (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 115 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 116 (u) theft, Section 76-6-404;
- 117 (v) theft by deception, Section 76-6-405;
- 118 (w) theft by extortion, Section 76-6-406;
- 119 (x) receiving stolen property, Section 76-6-408;
- 120 (y) theft of services, Section 76-6-409;

- 121 (z) forgery, Section 76-6-501;
- 122 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- 123 (bb) deceptive business practices, Section 76-6-507;
- 124 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
125 criticism of goods, Section 76-6-508;
- 126 (dd) bribery of a labor official, Section 76-6-509;
- 127 (ee) defrauding creditors, Section 76-6-511;
- 128 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 129 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
- 130 (hh) bribery or threat to influence contest, Section 76-6-514;
- 131 (ii) making a false credit report, Section 76-6-517;
- 132 (jj) criminal simulation, Section 76-6-518;
- 133 (kk) criminal usury, Section 76-6-520;
- 134 (ll) fraudulent insurance act, Section 76-6-521;
- 135 (mm) computer crimes, Section 76-6-703;
- 136 (nn) identity fraud, Section 76-6-1102;
- 137 (oo) sale of a child, Section 76-7-203;
- 138 (pp) bribery to influence official or political actions, Section 76-8-103;
- 139 (qq) threats to influence official or political action, Section 76-8-104;
- 140 (rr) receiving bribe or bribery by public servant, Section 76-8-105;
- 141 (ss) receiving bribe or bribery for endorsement of person as public servant, Section
142 76-8-106;
- 143 (tt) official misconduct, Sections 76-8-201 and 76-8-202;
- 144 (uu) obstruction of justice, Section 76-8-306;
- 145 (vv) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 146 (ww) false or inconsistent material statements, Section 76-8-502;
- 147 (xx) false or inconsistent statements, Section 76-8-503;
- 148 (yy) written false statements, Section 76-8-504;
- 149 (zz) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 150 (aaa) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 151 (bbb) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

152 (ccc) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
153 76-8-1205;

154 (ddd) unemployment insurance fraud, Section 76-8-1301;

155 (eee) intentionally or knowingly causing one animal to fight with another, Subsection
156 76-9-301(1)(f);

157 (fff) possession, use, or removal of explosives, chemical, or incendiary devices or
158 parts, Section 76-10-306;

159 (ggg) delivery to common carrier, mailing, or placement on premises of an incendiary
160 device, Section 76-10-307;

161 (hhh) possession of a deadly weapon with intent to assault, Section 76-10-507;

162 (iii) unlawful marking of pistol or revolver, Section 76-10-521;

163 (jjj) alteration of number or mark on pistol or revolver, Section 76-10-522;

164 (kkk) forging or counterfeiting trademarks, trade name, or trade device, Section
165 76-10-1002;

166 (lll) selling goods under counterfeited trademark, trade name, or trade devices, Section
167 76-10-1003;

168 (mmm) sales in containers bearing registered trademark of substituted articles, Section
169 76-10-1004;

170 (nnn) selling or dealing with article bearing registered trademark or service mark with
171 intent to defraud, Section 76-10-1006;

172 (ooo) gambling, Section 76-10-1102;

173 (ppp) gambling fraud, Section 76-10-1103;

174 (qqq) gambling promotion, Section 76-10-1104;

175 (rrr) possessing a gambling device or record, Section 76-10-1105;

176 (sss) confidence game, Section 76-10-1109;

177 (ttt) distributing pornographic material, Section 76-10-1204;

178 (uuu) inducing acceptance of pornographic material, Section 76-10-1205;

179 (vvv) dealing in harmful material to a minor, Section 76-10-1206;

180 (www) distribution of pornographic films, Section 76-10-1222;

181 (xxx) indecent public displays, Section 76-10-1228;

182 (yyy) prostitution, Section 76-10-1302;

183 (zzz) aiding prostitution, Section 76-10-1304;
184 (aaaa) exploiting prostitution, Section 76-10-1305;
185 (bbbb) aggravated exploitation of prostitution, Section 76-10-1306;
186 (cccc) communications fraud, Section 76-10-1801;
187 (dddd) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19,
188 Money Laundering and Currency Transaction Reporting Act;
189 (eeee) any act prohibited by the criminal provisions of the laws governing taxation in
190 this state; and
191 (ffff) any act illegal under the laws of the United States and enumerated in Title 18,
192 Section 1961 (1)(B), (C), and (D) of the United States Code.

Legislative Review Note
as of 1-25-07 2:16 PM

Office of Legislative Research and General Counsel

H.B. 175 - Vehicle Use Regarding Illegal Drugs

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
