

**Representative Curtis Oda** proposes the following substitute bill:

**OFFENSE AGAINST PEACE OFFICERS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

Senate Sponsor: Jon J. Greiner

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**LONG TITLE**

**General Description:**

This bill modifies the Criminal Code and the Code of Criminal Procedure regarding peace officers, including an officer's authority to stop a person, the offense of propelling an item at a peace officer or correctional officer, and the offense of assaulting a peace officer.

**Highlighted Provisions:**

This bill:

- ▶ provides that a person who assaults a peace officer after the person has been stopped for questioning is guilty of a third degree felony; and
- ▶ amends the offense of propelling substances at peace and correctional officers to include persons other than prisoners.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-5-101**, as last amended by Chapter 171, Laws of Utah 2003



26 **76-5-102.4**, as last amended by Chapter 172, Laws of Utah 1998

27 **76-5-102.6**, as last amended by Chapter 230, Laws of Utah 2005



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

30 Section 1. Section **76-5-101** is amended to read:

31 **76-5-101. "Prisoner" defined.**

32 [~~For purposes of~~] As used in this part, "prisoner" means any person who is:

33 (1) in custody of a peace officer pursuant to a lawful arrest [~~or who is~~];

34 (2) lawfully detained pursuant to Section 77-7-15; or

35 (3) confined in a jail or other penal institution or a facility used for confinement of

36 delinquent juveniles and that is operated by the Division of Juvenile Justice Services,

37 regardless of whether the confinement is legal.

38 Section 2. Section **76-5-102.4** is amended to read:

39 **76-5-102.4. Assault against peace officer -- Penalty.**

40 (1) Any person who assaults a peace officer, with knowledge that he is a peace officer,  
41 and when the peace officer:

42 (a) is acting within the scope of his authority as a peace officer, is guilty of a class A  
43 misdemeanor; and

44 (b) is acting within the scope of his authority as a peace officer to stop and question the  
45 person pursuant to Section 77-7-15, is guilty of a third degree felony.

46 (2) A person who violates this section shall serve, in jail or another correctional  
47 facility, a minimum of:

48 (a) 90 consecutive days for a second offense; and

49 (b) 180 consecutive days for each subsequent offense.

50 (3) The court may suspend the imposition or execution of the sentence required under  
51 Subsection (2) if the court:

52 (a) finds that the interests of justice would be best served; and

53 (b) makes specific findings concerning the disposition in writing or on the record.

54 Section 3. Section **76-5-102.6** is amended to read:

55 **76-5-102.6. Propelling substance or object at a correctional or peace officer --**  
56 **Penalties.**

57 (1) Any prisoner who throws or otherwise propels any substance or object at a peace or  
58 correctional officer is guilty of a class A misdemeanor, except as provided under Subsection  
59 (2).

60 (2) A violation of Subsection (1) is a third degree felony if:

61 (a) the object or substance is:

62 (i) blood, urine, or fecal material; or

63 (ii) the prisoner's saliva, and the prisoner is infected with HIV, hepatitis B, or hepatitis  
64 C; and

65 (b) the object or substance comes into contact with any portion of the officer's face,  
66 including the eyes or mouth, or comes into contact with any open wound on the officer's body.

67 (3) If an offense committed under this section amounts to an offense subject to a  
68 greater penalty under another provision of state law than under this section, this section does  
69 not prohibit prosecution and sentencing for the more serious offense.