

VEHICLE CONCEALING ILLEGAL ITEMS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

General Description:

This bill modifies the Criminal Code to provide that altering a ~~§~~→ [motor] ←~~§~~ vehicle to facilitate concealing an illegal item is a criminal offense.

Highlighted Provisions:

This bill:

▶ provides that modifying any ~~§~~→ [motor] ←~~§~~ vehicle to facilitate the illegal transportation,

concealment, or storage of contraband is a third degree felony; and

▶ provides that possession of a ~~§~~→ [motor] ←~~§~~ vehicle modified to facilitate concealing contraband, with the intent to conceal or transport contraband, is a class A misdemeanor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-1602, as last amended by Laws of Utah 2007, Chapter 129

ENACTS:



28 76-10-2701, Utah Code Annotated 1953



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

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

32 **76-10-1602. Definitions.**

33 As used in this part:

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

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

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

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

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

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

58 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary

- 59 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Chapter 13, Wildlife
60 Resources Code of Utah, or Section 23-20-4;
- 61 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title
62 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;
- 63 (e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal
64 Offenses;
- 65 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
66 Land Sales Practices Act;
- 67 (g) any act prohibited by the criminal provisions of:
- 68 (i) Title 58, Chapter 37, Utah Controlled Substances Act~~[, or]~~;
- 69 (ii) Title 58, Chapter 37b, Imitation Controlled Substances Act~~[,]~~;
- 70 (iii) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act~~[,]~~; or
- 71 (iv) Title 58, Chapter 37d, Clandestine Drug Lab Act;
- 72 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
73 Securities Act;
- 74 (i) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah
75 Procurement Code;
- 76 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 77 (k) a terroristic threat, Section 76-5-107;
- 78 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 79 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 80 (n) sexual exploitation of a minor, Section 76-5a-3;
- 81 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 82 (p) causing a catastrophe, Section 76-6-105;
- 83 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 84 (r) burglary of a vehicle, Section 76-6-204;
- 85 (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 86 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 87 (u) theft, Section 76-6-404;
- 88 (v) theft by deception, Section 76-6-405;
- 89 (w) theft by extortion, Section 76-6-406;

- 90 (x) receiving stolen property, Section 76-6-408;
- 91 (y) theft of services, Section 76-6-409;
- 92 (z) forgery, Section 76-6-501;
- 93 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- 94 (bb) deceptive business practices, Section 76-6-507;
- 95 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
96 criticism of goods, Section 76-6-508;
- 97 (dd) bribery of a labor official, Section 76-6-509;
- 98 (ee) defrauding creditors, Section 76-6-511;
- 99 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 100 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
- 101 (hh) bribery or threat to influence contest, Section 76-6-514;
- 102 (ii) making a false credit report, Section 76-6-517;
- 103 (jj) criminal simulation, Section 76-6-518;
- 104 (kk) criminal usury, Section 76-6-520;
- 105 (ll) fraudulent insurance act, Section 76-6-521;
- 106 (mm) retail theft, Section 76-6-602;
- 107 (nn) computer crimes, Section 76-6-703;
- 108 (oo) identity fraud, Section 76-6-1102;
- 109 (pp) sale of a child, Section 76-7-203;
- 110 (qq) bribery to influence official or political actions, Section 76-8-103;
- 111 (rr) threats to influence official or political action, Section 76-8-104;
- 112 (ss) receiving bribe or bribery by public servant, Section 76-8-105;
- 113 (tt) receiving bribe or bribery for endorsement of person as public servant, Section
114 76-8-106;
- 115 (uu) official misconduct, Sections 76-8-201 and 76-8-202;
- 116 (vv) obstruction of justice, Section 76-8-306;
- 117 (ww) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 118 (xx) false or inconsistent material statements, Section 76-8-502;
- 119 (yy) false or inconsistent statements, Section 76-8-503;
- 120 (zz) written false statements, Section 76-8-504;

- 121 (aaa) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 122 (bbb) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 123 (ccc) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 124 (ddd) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 125 76-8-1205;
- 126 (eee) unemployment insurance fraud, Section 76-8-1301;
- 127 (fff) intentionally or knowingly causing one animal to fight with another, Subsection
- 128 76-9-301(1)(f);
- 129 (ggg) possession, use, or removal of explosives, chemical, or incendiary devices or
- 130 parts, Section 76-10-306;
- 131 (hhh) delivery to common carrier, mailing, or placement on premises of an incendiary
- 132 device, Section 76-10-307;
- 133 (iii) possession of a deadly weapon with intent to assault, Section 76-10-507;
- 134 (jjj) unlawful marking of pistol or revolver, Section 76-10-521;
- 135 (kkk) alteration of number or mark on pistol or revolver, Section 76-10-522;
- 136 (lll) forging or counterfeiting trademarks, trade name, or trade device, Section
- 137 76-10-1002;
- 138 (mmm) selling goods under counterfeited trademark, trade name, or trade devices,
- 139 Section 76-10-1003;
- 140 (nnn) sales in containers bearing registered trademark of substituted articles, Section
- 141 76-10-1004;
- 142 (ooo) selling or dealing with article bearing registered trademark or service mark with
- 143 intent to defraud, Section 76-10-1006;
- 144 (ppp) gambling, Section 76-10-1102;
- 145 (qqq) gambling fraud, Section 76-10-1103;
- 146 (rrr) gambling promotion, Section 76-10-1104;
- 147 (sss) possessing a gambling device or record, Section 76-10-1105;
- 148 (ttt) confidence game, Section 76-10-1109;
- 149 (uuu) distributing pornographic material, Section 76-10-1204;
- 150 (vvv) inducing acceptance of pornographic material, Section 76-10-1205;
- 151 (www) dealing in harmful material to a minor, Section 76-10-1206;

- 152 (xxx) distribution of pornographic films, Section 76-10-1222;
- 153 (yyy) indecent public displays, Section 76-10-1228;
- 154 (zzz) prostitution, Section 76-10-1302;
- 155 (aaaa) aiding prostitution, Section 76-10-1304;
- 156 (bbbb) exploiting prostitution, Section 76-10-1305;
- 157 (cccc) aggravated exploitation of prostitution, Section 76-10-1306;
- 158 (dddd) communications fraud, Section 76-10-1801;
- 159 (eeee) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19,

160 Money Laundering and Currency Transaction Reporting Act;

161 (ffff) vehicle compartment for contraband, Section 76-10-2701;

162 ~~(ffff)~~ (gggg) any act prohibited by the criminal provisions of the laws governing
163 taxation in this state; and

164 ~~(gggg)~~ (hhhh) any act illegal under the laws of the United States and enumerated in
165 Title 18, Section 1961 (1)(B), (C), and (D) of the United States Code.

166 Section 2. Section **76-10-2701** is enacted to read:

167 **Part 27. Vehicle Compartment for Contraband**

168 **76-10-2701. Vehicle compartment for contraband -- Penalties.**

169 (1) As used in this section:

170 (a) (i) "Compartment" means any box, container, space, or enclosure:

171 (A) that is intended or designed to conceal, hide, or otherwise prevent the discovery of
172 contraband; and

173 (B) that is within a ~~§~~→ [motor] ←~~§~~ vehicle or attached to a ~~§~~→ [motor] ←~~§~~ vehicle.

174 (ii) "Compartment" includes:

175 (A) false, altered, or modified fuel tanks;

176 (B) original factory equipment of a ~~§~~→ [motor] ←~~§~~ vehicle that is modified, altered, or
176a changed

177 to accommodate or contain contraband; and

178 (C) a box, container, space, or enclosure that is fabricated, made, created from, or
179 added to the existing structure of a ~~§~~→ [motor] ←~~§~~ vehicle.

180 (b) (i) "Contraband" means any property, item, or substance which is unlawful to
181 produce or possess under state or federal law.

182 (ii) "Contraband" includes any cash or monetary instrument that is the proceeds of an

183 unlawful activity under Subsection 76-10-1602(4).

184 (c) "Motor vehicle" has the same meaning as in Section 41-6a-102.

184a **Ŝ→ (d) "Semitrailer" has the same meaning as in Section 41-6a-102.**

184b (e) "Trailer" has the same meaning as in Section 41-1a-102.

184c (f) "Vehicle" means a motor vehicle, a trailer, and a semitrailer. ←Ŝ

185 (2) It is a class A misdemeanor for a person to ~~H→~~ knowingly ~~←H~~ possess, use,
185a or control a ~~Ŝ→~~ [motor] ~~←Ŝ~~ vehicle

186 which has a compartment with the intent to store, conceal, or transport contraband in the
187 compartment.

188 (3) It is a third degree felony for a person to facilitate the storage, concealment, or
189 transportation of contraband by:

190 (a) designing, constructing, building, altering, or fabricating a compartment for a
190a **Ŝ→ [-motor] ←Ŝ**
191 vehicle;

192 (b) installing or creating a compartment in a ~~Ŝ→~~ [motor] ~~←Ŝ~~ vehicle; or

193 (c) attaching a compartment to a ~~Ŝ→~~ [motor] ~~←Ŝ~~ vehicle.

194 (4) The trier of fact may infer that a person intended to store, conceal, or transport
195 contraband if the person possesses, uses, or controls a ~~Ŝ→~~ [motor] ~~←Ŝ~~ vehicle that has a
195a compartment,

196 and the compartment contains:

197 (a) contraband; or

198 (b) evidence of prior storage, concealment, or transportation of contraband.

Legislative Review Note
as of 10-22-07 7:27 AM

Office of Legislative Research and General Counsel

H.B. 30 - Vehicle Concealing Illegal Items

Fiscal Note

2008 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.
