

**HUMAN TRAFFICKING AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christopher N. Herrod**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill criminalizes human trafficking and human smuggling.

**Highlighted Provisions:**

This bill:

- ▶ criminalizes human smuggling for profit or commercial purposes;
- ▶ criminalizes human trafficking for forced labor and for sexual exploitation;
- ▶ distinguishes between human trafficking and aggravated human trafficking; and
- ▶ distinguishes between human smuggling and aggravated human smuggling.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

**⚡→ [None] This bill coordinates with S.B. 81, Illegal Immigration, by providing a substantive amendment. ←⚡**

**Utah Code Sections Affected:**

ENACTS:

**76-5-307**, Utah Code Annotated 1953

**76-5-308**, Utah Code Annotated 1953

**76-5-309**, Utah Code Annotated 1953

**76-5-310**, Utah Code Annotated 1953

**⚡→ [~~76-5-311, Utah Code Annotated 1953~~] ←⚡**



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

29 Section 1. Section **76-5-307** is enacted to read:

30 **Part 3. Kidnapping, Trafficking, and Smuggling**

31 **76-5-307. Definitions.**

32 As used in Sections 76-5-308 through 76-5-312 of this part:

33 (1) "Family member" means a person's parent, grandparent, sibling, or any other person  
34 related to the person by consanguinity or affinity to the second degree.

35 (2) "Smuggling of human beings" means the transportation or procurement of  
36 transportation for one or more persons by an actor who knows or has reason to know that the  
37 person or persons transported or to be transported are not:

38 (a) citizens of the United States;

39 (b) permanent resident aliens; or

40 (c) otherwise lawfully in this state or entitled to be in this state.

41 Section 2. Section **76-5-308** is enacted to read:

42 **76-5-308. Human trafficking.**

43 (1) An actor commits human trafficking for forced labor or forced sexual exploitation  
44 if the actor recruits, harbors, transports, or obtains a person through the use of force, fraud, or  
45 coercion by means of:

46 (a) threatening serious harm to, or physical restraint against, that person or a third  
47 person;

48 (b) destroying, concealing, removing, confiscating, or possessing any passport,  
49 immigration document, or other government identification document;

50 (c) abusing or threatening abuse of the law or legal process against the person or a third  
51 person;

52 (d) using a condition of a person being a debtor due to a pledge of the debtor's personal  
53 services or the personal services of a person under the control of the debtor as a security for  
54 debt where the reasonable value of the services is not applied toward the liquidation of the debt  
55 or the length and nature of those services are not respectively limited and defined; or

56 (e) using a condition of servitude by means of any scheme, plan, or pattern intended to  
57 cause a person to believe that if the person did not enter into or continue in a condition of  
58 servitude, that person or a third person would suffer serious harm or physical restraint, or

59 would be threatened with abuse of legal process.

60 (2) (a) Human trafficking for forced labor includes forced labor in industrial facilities,  
61 sweatshops, households, agricultural enterprises, and any other workplace.

62 (b) Human trafficking for forced sexual exploitation includes all forms of forced  
63 commercial sexual activity, including forced sexually explicit performance, forced prostitution,  
64 forced participation in the production of pornography, forced performance in strip clubs, and  
65 forced exotic dancing or display.

66 Section 3. Section **76-5-309** is enacted to read:

67 **76-5-309. Human trafficking and human smuggling -- Penalties.**

68 (1) Human trafficking for forced labor and human trafficking for forced sexual  
69 exploitation are each a second degree felony, except under Section 76-5-310.

70 (2) Human smuggling of one or more human beings for profit or for a commercial  
71 purpose is a ~~§~~ **[second degree felony]** **third degree felony** ~~←§~~, except under Section 76-5-310.

72 (3) Human trafficking and human smuggling are each a separate offense from any other  
73 crime committed in relationship to the commission of either of these offenses.

74 (4) A person who benefits financially or materially by receiving anything of value from  
75 knowing participation in ~~§~~ :

75a (a) ~~←§~~ human trafficking ~~§~~ **[or human smuggling]** ~~←§~~ is guilty of a second degree  
76 felony ~~§~~ ; and

76a (b) human smuggling is guilty of a third degree felony ~~←§~~ .

77 Section 4. Section **76-5-310** is enacted to read:

78 **76-5-310. Aggravated human trafficking and aggravated human smuggling --**  
79 **Penalties.**

80 (1) An actor commits aggravated human trafficking for forced labor or forced sexual  
81 exploitation or aggravated human smuggling if, in the course of committing a human  
82 trafficking or human smuggling offense under Section 76-5-309, the offense:

83 (a) results in the death of the trafficked or smuggled person;

84 (b) results in serious bodily injury of the trafficked or smuggled person;

85 (c) involves:

86 (i) rape under Section 76-5-402;

87 (ii) rape of a child under Section 76-5-402.1;

88 (iii) object rape under Section 76-5-402.2;

89 (iv) object rape of a child under Section 76-5-402.3;

90 (v) forcible sodomy under Section 76-5-403;  
 91 (vi) sodomy on a child under Section 76-5-403.1;  
 92 (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or  
 93 (viii) aggravated sexual assault under 76-5-405;  
 94 (d) involves more than ten victims in a single episode of human trafficking or human  
 95 smuggling; or

96 (e) involves a victim who is held against the victim's will for longer than 180  
 97 consecutive days.

98 (2) An actor commits aggravated human trafficking for forced labor or forced sexual  
 99 exploitation if the offense involves a victim who is younger than 18 years of age at the time of  
 100 the commission of the offense of trafficking.

101 (3) An actor commits aggravated human smuggling if the actor commits human  
 102 smuggling under Subsection 76-5-309(2) and any human being whom the person engages in  
 103 smuggling is:

104 (a) younger than 18 years of age; and

105 (b) not accompanied by a family member who is 18 years of age or older.

106 (4) (a) Aggravated human trafficking for forced labor or forced sexual exploitation and  
 107 aggravated human smuggling for profit or commercial purposes are each a first degree felony.

108 (b) Aggravated human trafficking and aggravated human smuggling are each a separate  
 109 offense from any other crime committed in relationship to the commission of either of these  
 110 offenses.

111 ~~Ĥ→ [Section 5. Section 76-5-311 is enacted to read:~~

112 ~~—— 76-5-311. Affirmative defense.~~

113 ~~—— Human trafficking is an affirmative defense to prosecution of a person for a criminal~~  
 114 ~~violation directly related to the defendant's status as a victim of a crime that is a violation of~~  
 115 ~~this section.] ←Ĥ~~

115a **Š→ Section 5. Coordinating H.B. 339 with S.B. 81 -- Modifying substantive language.**

115b **If this H.B. 339 and S.B. 81, Illegal Immigration, both pass, it is the intent of the Legislature**

115c **that the Office of Legislative Research and General Counsel, in preparing the Utah Code**

115d **database for publication, modify Subsection 76-10-2701(3), as enacted by S.B. 81 to read**

115e **as follows:**

115f **(3)(a) A person who violates Subsection (2)(a) is guilty of a third degree felony.**

115g **(b) A person who violates Subsection (2)(b) is guilty of a class A misdemeanor. ←Š**

Legislative Review Note  
 as of 12-5-07 7:55 AM

Office of Legislative Research and General Counsel

Senate 2nd Reading Amendments 3-3-2008 <sup>rd/</sup>

Senate Committee Amendments 2-27-2008 <sup>rd/</sup>

House Committee Amendments 2-14-2008 <sup>je/</sup>

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**H.B. 339 - Human Trafficking Amendments**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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