

30 76-10-508, as last amended by Laws of Utah 2005, Chapter 220

31 ENACTS:

32 76-10-508.1, Utah Code Annotated 1953

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

35 Section 1. Section 53-3-220 is amended to read:

36 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
37 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
38 **Limited driving privileges.**

39 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter
40 6a, Traffic Code, specifically provides for denial, suspension, or disqualification, the division
41 shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's
42 conviction for [~~any of the following offenses~~]:

43 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
44 automobile homicide under Section 76-5-207;

45 (ii) driving or being in actual physical control of a motor vehicle while under the
46 influence of alcohol, any drug, or combination of them to a degree that renders the person
47 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in
48 an ordinance that complies with the requirements of Subsection 41-6a-510(1);

49 (iii) driving or being in actual physical control of a motor vehicle while having a blood
50 or breath alcohol content prohibited in Section 41-6a-502 or as prohibited in an ordinance that
51 complies with the requirements of Subsection 41-6a-510(1);

52 (iv) perjury or the making of a false affidavit to the division under this chapter, Title 41,
53 Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
54 regulating driving on highways;

55 (v) any felony under the motor vehicle laws of this state;

56 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

57 (vii) failure to stop and render aid as required under the laws of this state if a motor

58 vehicle accident results in the death or personal injury of another;

59 (viii) two charges of reckless driving committed within a period of 12 months; but if
60 upon a first conviction of reckless driving the judge or justice recommends suspension of the
61 convicted person's license, the division may after a hearing suspend the license for a period of
62 three months;

63 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
64 required in Section 41-6a-210;

65 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
66 requires disqualification;

67 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
68 allowing the discharge of a firearm from a vehicle [~~in violation of Subsection 76-10-508(2)~~];

69 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
70 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

71 (xiii) operating or being in actual physical control of a motor vehicle while having any
72 measurable controlled substance or metabolite of a controlled substance in the person's body in
73 violation of Section 41-6a-517;

74 (xiv) until July 30, 2015, operating or being in actual physical control of a motor vehicle
75 while having any alcohol in the person's body in violation of Section 53-3-232;

76 (xv) operating or being in actual physical control of a motor vehicle while having any
77 measurable or detectable amount of alcohol in the person's body in violation of Section
78 41-6a-530;

79 (xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
80 violation of Section 41-6a-606; [~~and~~] or

81 (xvii) operating or being in actual physical control of a motor vehicle in this state
82 without an ignition interlock system in violation of Section 41-6a-518.2.

83 (b) The division shall immediately revoke the license of a person upon receiving a
84 record of an adjudication under Title 78, Chapter 3a, Juvenile Court Act of 1996, for [~~any of~~
85 ~~the following offenses~~]:

86 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
87 allowing the discharge of a firearm from a vehicle [in violation of Subsection 76-10-508(2);
88 and]; or

89 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
90 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

91 (c) Except when action is taken under Section 53-3-219 for the same offense, the
92 division shall immediately suspend for six months the license of a person upon receiving a
93 record of conviction for [~~any of the following offenses~~]:

94 (i) any violation of:

95 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

96 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

97 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

98 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

99 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

100 (ii) any criminal offense that prohibits:

101 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
102 that is prohibited under the acts described in Subsection (1)(c)(i); or

103 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
104 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

105 (2) The division shall extend the period of the first denial, suspension, revocation, or
106 disqualification for an additional like period, to a maximum of one year for each subsequent
107 occurrence, upon receiving:

108 (a) a record of the conviction of any person on a charge of driving a motor vehicle
109 while the person's license is denied, suspended, revoked, or disqualified;

110 (b) a record of a conviction of the person for any violation of the motor vehicle law in
111 which the person was involved as a driver;

112 (c) a report of an arrest of the person for any violation of the motor vehicle law in
113 which the person was involved as a driver; or

114 (d) a report of an accident in which the person was involved as a driver.

115 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
116 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
117 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
118 or revocation originally imposed under Section 53-3-221.

119 (4) (a) The division may extend to a person the limited privilege of driving a motor
120 vehicle to and from the person's place of employment or within other specified limits on
121 recommendation of the trial judge in any case where a person is convicted of any of the offenses
122 referred to in Subsections (1) and (2) except:

123 (i) automobile homicide under Subsection (1)(a)(i);

124 (ii) those offenses referred to in Subsections (1)(a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),
125 (1)(b), and (1)(c); and

126 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
127 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
128 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1),
129 Section 41-6a-520, [or] Section 76-5-207, or a criminal prohibition that the person was charged
130 with violating as a result of a plea bargain after having been originally charged with violating
131 one or more of these sections or ordinances.

132 (b) This discretionary privilege is limited to when undue hardship would result from a
133 failure to grant the privilege and may be granted only once to any [~~individual~~] person during any
134 single period of denial, suspension, revocation, or disqualification, or extension of that denial,
135 suspension, revocation, or disqualification.

136 (c) A limited CDL may not be granted to [~~an individual~~] a person disqualified under
137 Part 4, Uniform Commercial Driver License Act, or whose license has been revoked,
138 suspended, cancelled, or denied under this chapter.

139 Section 2. Section **76-5-203** is amended to read:

140 **76-5-203. Murder.**

141 (1) As used in this section, "predicate offense" means:

- 142 (a) a clandestine drug lab violation [~~of~~] under Section 58-37d-4 or 58-37d-5[
143 ~~Clandestine Drug Lab Act~~];
- 144 (b) child abuse, under Subsection 76-5-109(2)(a), when the victim is younger than 18
145 years of age;
- 146 (c) kidnapping under Section 76-5-301;
- 147 (d) child kidnapping under Section 76-5-301.1;
- 148 (e) aggravated kidnapping under Section 76-5-302;
- 149 (f) rape of a child under Section 76-5-402.1;
- 150 (g) object rape of a child under Section 76-5-402.3;
- 151 (h) sodomy upon a child under Section 76-5-403.1;
- 152 (i) forcible sexual abuse under Section 76-5-404;
- 153 (j) sexual abuse of a child or aggravated sexual abuse of a child under Section
154 76-5-404.1;
- 155 (k) rape under Section 76-5-402;
- 156 (l) object rape under Section 76-5-402.2;
- 157 (m) forcible sodomy under Section 76-5-403;
- 158 (n) aggravated sexual assault under Section 76-5-405;
- 159 (o) arson under Section 76-6-102;
- 160 (p) aggravated arson under Section 76-6-103;
- 161 (q) burglary under Section 76-6-202;
- 162 (r) aggravated burglary under Section 76-6-203;
- 163 (s) robbery under Section 76-6-301;
- 164 (t) aggravated robbery under Section 76-6-302;
- 165 (u) escape or aggravated escape under Section 76-8-309; or
- 166 (v) a felony violation of [~~Subsection~~] Section 76-10-508[~~(2)~~] or 76-10-508.1 regarding
167 discharge of a firearm or dangerous weapon.
- 168 (2) Criminal homicide constitutes murder if:
- 169 (a) the actor intentionally or knowingly causes the death of another;

170 (b) intending to cause serious bodily injury to another, the actor commits an act clearly
171 dangerous to human life that causes the death of another;

172 (c) acting under circumstances evidencing a depraved indifference to human life, the
173 actor knowingly engages in conduct which creates a grave risk of death to another and thereby
174 causes the death of another;

175 (d) (i) the actor is engaged in the commission, attempted commission, or immediate
176 flight from the commission or attempted commission of any predicate offense, or is a party to
177 the predicate offense;

178 (ii) a person other than a party as defined in Section 76-2-202 is killed in the course of
179 the commission, attempted commission, or immediate flight from the commission or attempted
180 commission of any predicate offense; and

181 (iii) the actor acted with the intent required as an element of the predicate offense;

182 (e) the actor recklessly causes the death of a peace officer while in the commission or
183 attempted commission of:

184 (i) an assault against a peace officer under Section 76-5-102.4; or

185 (ii) interference with a peace officer while making a lawful arrest under Section
186 76-8-305 if the actor uses force against a peace officer;

187 (f) commits a homicide which would be aggravated murder, but the offense is reduced
188 pursuant to Subsection 76-5-202(4); or

189 (g) the actor commits aggravated murder, but special mitigation is established under
190 Section 76-5-205.5.

191 (3) (a) Murder is a first degree felony.

192 (b) A person who is convicted of murder shall be sentenced to imprisonment for an
193 indeterminate term of not less than 15 years and which may be for life.

194 (4) (a) It is an affirmative defense to a charge of murder or attempted murder that the
195 defendant caused the death of another or attempted to cause the death of another:

196 (i) under the influence of extreme emotional distress for which there is a reasonable
197 explanation or excuse; or

198 (ii) under a reasonable belief that the circumstances provided a legal justification or
199 excuse for his conduct although the conduct was not legally justifiable or excusable under the
200 existing circumstances.

201 (b) Under Subsection (4)(a)(i) emotional distress does not include:

202 (i) a condition resulting from mental illness as defined in Section 76-2-305; or

203 (ii) distress that is substantially caused by the defendant's own conduct.

204 (c) The reasonableness of an explanation or excuse under Subsection (4)(a)(i) or the
205 reasonable belief of the actor under Subsection (4)(a)(ii) shall be determined from the viewpoint
206 of a reasonable person under the then existing circumstances.

207 (d) This affirmative defense reduces charges only as follows:

208 (i) murder to manslaughter; and

209 (ii) attempted murder to attempted manslaughter.

210 Section 3. Section **76-10-508** is amended to read:

211 **76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of**
212 **any person, building, or vehicle -- Penalties.**

213 (1) (a) A person may not discharge any kind of dangerous weapon or firearm:

214 (i) from an automobile or other vehicle;

215 (ii) from, upon, or across any highway;

216 (iii) at any road signs placed upon any highways of the state;

217 (iv) at any communications equipment or property of public utilities including facilities,
218 lines, poles, or devices of transmission or distribution;

219 (v) at railroad equipment or facilities including any sign or signal;

220 (vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf
221 courses, boat ramps, and developed beaches; or

222 (vii) without written permission to discharge the dangerous weapon from the owner or
223 person in charge of the property within 600 feet of:

224 (A) a house, dwelling, or any other building; or

225 (B) any structure in which a domestic animal is kept or fed, including a barn, poultry

226 yard, corral, feeding pen, or stockyard.

227 (b) It ~~[shall be]~~ is a defense to any charge for violating this section that the person being
228 accused had actual permission of the owner or person in charge of the property at the time in
229 question.

230 (2) A violation of any provision of ~~[this section]~~ Subsection (1) is a class B
231 misdemeanor ~~[unless the actor discharges a firearm under any of the following circumstances~~
232 ~~not amounting to criminal homicide or attempted criminal homicide, in which case it is a third~~
233 ~~degree felony and the convicted person shall be sentenced to an enhanced minimum term of~~
234 ~~three years in prison:].~~

235 ~~[(a) the actor discharges a firearm in the direction of any person or persons, knowing or~~
236 ~~having reason to believe that any person may be endangered;]~~

237 ~~[(b) the actor, with intent to intimidate or harass another or with intent to damage a~~
238 ~~habitable structure as defined in Subsection 76-6-101(2), discharges a firearm in the direction of~~
239 ~~any building; or]~~

240 ~~[(c) the actor, with intent to intimidate or harass another, discharges a firearm in the~~
241 ~~direction of any vehicle.]~~

242 (3) ~~[The]~~ In addition to any other penalties, the court shall:

243 (a) notify the Driver License Division of the conviction for purposes of any revocation,
244 denial, suspension, or disqualification of a driver license under ~~[Section]~~ Subsection
245 53-3-220(1)(a)(xi); and

246 (b) specify in court at the time of sentencing the length of the revocation under
247 Subsection 53-3-225(1)(c).

248 (4) This section does not apply to a person who:

249 (a) ~~[who]~~ discharges any kind of firearm when that person is in lawful defense of self or
250 others; ~~[or]~~

251 (b) ~~[who]~~ is performing official duties as provided in Sections 23-20-1.5 and 76-10-523
252 and as otherwise provided by law~~[-];~~ or

253 (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

- 254 (i) the discharge occurs at a firing range or training ground;
- 255 (ii) at no time after the discharge does the projectile that is discharged cross over or
- 256 stop at a location other than within the boundaries of the firing range or training ground
- 257 described in Subsection (4)(c)(i);
- 258 (iii) the discharge is made as practice or training for a lawful purpose;
- 259 (iv) the discharge and the location, time, and manner of the discharge are approved by
- 260 the owner or operator of the firing range or training ground prior to the discharge; and
- 261 (v) the discharge is not made in violation of Subsection (1).

262 Section 4. Section **76-10-508.1** is enacted to read:

263 **76-10-508.1. Felony discharge of a firearm -- Penalties.**

264 (1) Except as provided under Subsection (2) or (3), a person who discharges a firearm

265 under any of the circumstances not amounting to criminal homicide or attempted criminal

266 homicide is guilty of a third degree felony punishable by imprisonment for a term of not less

267 than three years nor more than five years if:

268 (a) the actor discharges a firearm in the direction of any person or persons, knowing or

269 having reason to believe that any person may be endangered by the discharge of the firearm;

270 (b) the actor, with intent to intimidate or harass another or with intent to damage a

271 habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any

272 person or habitable structure; or

273 (c) the actor, with intent to intimidate or harass another, discharges a firearm in the

274 direction of any vehicle.

275 (2) A violation of Subsection (1) which causes injury to any person is a second degree

276 felony punishable by imprisonment for a term of not less than three years nor more than fifteen

277 years.

278 (3) A violation of Subsection (1) which causes serious bodily injury to any person is a

279 first degree felony.

280 (4) In addition to any other penalties for a violation of this section, the court shall:

281 (a) notify the Driver License Division of the conviction for purposes of any revocation,

282 denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi);
283 and
284 (b) specify in court at the time of sentencing the length of the revocation under
285 Subsection 53-3-225(1)(c).
286 (5) This section does not apply to a person:
287 (a) who discharges any kind of firearm when that person is in lawful defense of self or
288 others;
289 (b) who is performing official duties as provided in Section 23-20-1.5 or 76-10-523 or
290 as otherwise authorized by law;
291 (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:
292 (i) the discharge occurs at a firing range or training ground;
293 (ii) at no time after the discharge does the projectile that is discharged cross over or
294 stop at a location other than within the boundaries of the firing range or training ground
295 described in Subsection (5)(c)(i);
296 (iii) the discharge is made as practice or training for a lawful purpose;
297 (iv) the discharge and the location, time, and manner of the discharge are approved by
298 the owner or operator of the firing range or training ground prior to the discharge; and
299 (v) the discharge is not made in violation of Subsection (1).