

1 **VEHICLE CONCEALING ILLEGAL ITEMS**

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Paul Ray**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Criminal Code to provide that altering a vehicle to facilitate
10 concealing an illegal item is a criminal offense.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides that modifying any vehicle to facilitate the illegal transportation,
14 concealment, or storage of contraband is a third degree felony; and
- 15 ▶ provides that possession of a vehicle modified to facilitate concealing contraband,
16 with the intent to conceal or transport contraband, is a class A misdemeanor.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **76-10-1602**, as last amended by Laws of Utah 2007, Chapter 129

24 **ENACTS:**

25 **76-10-2701**, Utah Code Annotated 1953

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

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

29 **76-10-1602. Definitions.**

30 As used in this part:

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

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

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

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

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

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

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

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

- 86 (w) theft by extortion, Section 76-6-406;
- 87 (x) receiving stolen property, Section 76-6-408;
- 88 (y) theft of services, Section 76-6-409;
- 89 (z) forgery, Section 76-6-501;
- 90 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- 91 (bb) deceptive business practices, Section 76-6-507;
- 92 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
93 criticism of goods, Section 76-6-508;
- 94 (dd) bribery of a labor official, Section 76-6-509;
- 95 (ee) defrauding creditors, Section 76-6-511;
- 96 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 97 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
- 98 (hh) bribery or threat to influence contest, Section 76-6-514;
- 99 (ii) making a false credit report, Section 76-6-517;
- 100 (jj) criminal simulation, Section 76-6-518;
- 101 (kk) criminal usury, Section 76-6-520;
- 102 (ll) fraudulent insurance act, Section 76-6-521;
- 103 (mm) retail theft, Section 76-6-602;
- 104 (nn) computer crimes, Section 76-6-703;
- 105 (oo) identity fraud, Section 76-6-1102;
- 106 (pp) sale of a child, Section 76-7-203;
- 107 (qq) bribery to influence official or political actions, Section 76-8-103;
- 108 (rr) threats to influence official or political action, Section 76-8-104;
- 109 (ss) receiving bribe or bribery by public servant, Section 76-8-105;
- 110 (tt) receiving bribe or bribery for endorsement of person as public servant, Section
111 76-8-106;
- 112 (uu) official misconduct, Sections 76-8-201 and 76-8-202;
- 113 (vv) obstruction of justice, Section 76-8-306;

- 114 (ww) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 115 (xx) false or inconsistent material statements, Section 76-8-502;
- 116 (yy) false or inconsistent statements, Section 76-8-503;
- 117 (zz) written false statements, Section 76-8-504;
- 118 (aaa) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 119 (bbb) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 120 (ccc) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 121 (ddd) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 122 76-8-1205;
- 123 (eee) unemployment insurance fraud, Section 76-8-1301;
- 124 (fff) intentionally or knowingly causing one animal to fight with another, Subsection
- 125 76-9-301(1)(f);
- 126 (ggg) possession, use, or removal of explosives, chemical, or incendiary devices or
- 127 parts, Section 76-10-306;
- 128 (hhh) delivery to common carrier, mailing, or placement on premises of an incendiary
- 129 device, Section 76-10-307;
- 130 (iii) possession of a deadly weapon with intent to assault, Section 76-10-507;
- 131 (jjj) unlawful marking of pistol or revolver, Section 76-10-521;
- 132 (kkk) alteration of number or mark on pistol or revolver, Section 76-10-522;
- 133 (lll) forging or counterfeiting trademarks, trade name, or trade device, Section
- 134 76-10-1002;
- 135 (mmm) selling goods under counterfeited trademark, trade name, or trade devices,
- 136 Section 76-10-1003;
- 137 (nnn) sales in containers bearing registered trademark of substituted articles, Section
- 138 76-10-1004;
- 139 (ooo) selling or dealing with article bearing registered trademark or service mark with
- 140 intent to defraud, Section 76-10-1006;
- 141 (ppp) gambling, Section 76-10-1102;

- 142 (qqq) gambling fraud, Section 76-10-1103;
- 143 (rrr) gambling promotion, Section 76-10-1104;
- 144 (sss) possessing a gambling device or record, Section 76-10-1105;
- 145 (ttt) confidence game, Section 76-10-1109;
- 146 (uuu) distributing pornographic material, Section 76-10-1204;
- 147 (vvv) inducing acceptance of pornographic material, Section 76-10-1205;
- 148 (www) dealing in harmful material to a minor, Section 76-10-1206;
- 149 (xxx) distribution of pornographic films, Section 76-10-1222;
- 150 (yyy) indecent public displays, Section 76-10-1228;
- 151 (zzz) prostitution, Section 76-10-1302;
- 152 (aaaa) aiding prostitution, Section 76-10-1304;
- 153 (bbbb) exploiting prostitution, Section 76-10-1305;
- 154 (cccc) aggravated exploitation of prostitution, Section 76-10-1306;
- 155 (dddd) communications fraud, Section 76-10-1801;
- 156 (eeee) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19,

157 Money Laundering and Currency Transaction Reporting Act;

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

159 [~~(ffff)~~] (gggg) any act prohibited by the criminal provisions of the laws governing
160 taxation in this state; and

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

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

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

165 **76-10-2701. Vehicle compartment for contraband -- Penalties.**

166 (1) As used in this section:

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

168 (A) that is intended or designed to conceal, hide, or otherwise prevent the discovery of

169 contraband; and

- 170 (B) that is within a vehicle or attached to a vehicle.
- 171 (ii) "Compartment" includes:
- 172 (A) false, altered, or modified fuel tanks;
- 173 (B) original factory equipment of a vehicle that is modified, altered, or changed to
174 accommodate or contain contraband; and
- 175 (C) a box, container, space, or enclosure that is fabricated, made, created from, or
176 added to the existing structure of a vehicle.
- 177 (b) (i) "Contraband" means any property, item, or substance which is unlawful to
178 produce or possess under state or federal law.
- 179 (ii) "Contraband" includes any cash or monetary instrument that is the proceeds of an
180 unlawful activity under Subsection 76-10-1602(4).
- 181 (c) "Motor vehicle" has the same meaning as in Section 41-6a-102.
- 182 (d) "Semitrailer" has the same meaning as in Section 41-6a-102.
- 183 (e) "Trailer" has the same meaning as in Section 41-1a-102.
- 184 (f) "Vehicle" means a motor vehicle, a trailer, and a semitrailer.
- 185 (2) It is a class A misdemeanor for a person to knowingly possess, use, or control a
186 vehicle which has a compartment with the intent to store, conceal, or transport contraband in
187 the 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
191 vehicle;
- 192 (b) installing or creating a compartment in a vehicle; or
- 193 (c) attaching a compartment to a 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 vehicle that has a compartment, and the
196 compartment contains:
- 197 (a) contraband; or

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