

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53-3-220**, as last amended by Laws of Utah 2007, Chapter 261

31 **76-5-203**, as last amended by Laws of Utah 2007, Chapter 340

32 **76-10-508**, as last amended by Laws of Utah 2005, Chapter 220



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
48 in 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
53 41, 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 involving discharging or allowing the
68 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
75 vehicle 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 involving discharging or allowing the
87 discharge of a firearm from a vehicle [~~in violation of Subsection 76-10-508(2)~~]; and; or

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

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

93 (i) any violation of:

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

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

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

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

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

99 (ii) any criminal offense that prohibits:

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

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

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

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

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

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

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

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

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

121 offenses referred to in Subsections (1) and (2) except:

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

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

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

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

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

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

139 **76-5-203. Murder.**

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

141 (a) a clandestine drug lab violation [of] under Section 58-37d-4 or 58-37d-5[;
142 ~~Clandestine Drug Lab Act~~];

143 (b) child abuse, under Subsection 76-5-109(2)(a), when the victim is younger than 18
144 years of age;

145 (c) kidnapping under Section 76-5-301;

146 (d) child kidnapping under Section 76-5-301.1;

147 (e) aggravated kidnapping under Section 76-5-302;

148 (f) rape of a child under Section 76-5-402.1;

149 (g) object rape of a child under Section 76-5-402.3;

150 (h) sodomy upon a child under Section 76-5-403.1;

151 (i) forcible sexual abuse under Section 76-5-404;

- 152 (j) sexual abuse of a child or aggravated sexual abuse of a child under Section
- 153 76-5-404.1;
- 154 (k) rape under Section 76-5-402;
- 155 (l) object rape under Section 76-5-402.2;
- 156 (m) forcible sodomy under Section 76-5-403;
- 157 (n) aggravated sexual assault under Section 76-5-405;
- 158 (o) arson under Section 76-6-102;
- 159 (p) aggravated arson under Section 76-6-103;
- 160 (q) burglary under Section 76-6-202;
- 161 (r) aggravated burglary under Section 76-6-203;
- 162 (s) robbery under Section 76-6-301;
- 163 (t) aggravated robbery under Section 76-6-302;
- 164 (u) escape or aggravated escape under Section 76-8-309; or
- 165 (v) a felony violation of [~~Subsection~~] Section 76-10-508[~~(2)~~] regarding discharge of a
- 166 firearm or dangerous weapon.
- 167 (2) Criminal homicide constitutes murder if:
- 168 (a) the actor intentionally or knowingly causes the death of another;
- 169 (b) intending to cause serious bodily injury to another, the actor commits an act clearly
- 170 dangerous to human life that causes the death of another;
- 171 (c) acting under circumstances evidencing a depraved indifference to human life, the
- 172 actor knowingly engages in conduct which creates a grave risk of death to another and thereby
- 173 causes the death of another;
- 174 (d) (i) the actor is engaged in the commission, attempted commission, or immediate
- 175 flight from the commission or attempted commission of any predicate offense, or is a party to
- 176 the predicate offense;
- 177 (ii) a person other than a party as defined in Section 76-2-202 is killed in the course of
- 178 the commission, attempted commission, or immediate flight from the commission or attempted
- 179 commission of any predicate offense; and
- 180 (iii) the actor acted with the intent required as an element of the predicate offense;
- 181 (e) the actor recklessly causes the death of a peace officer while in the commission or
- 182 attempted commission of:

- 183 (i) an assault against a peace officer under Section 76-5-102.4; or
- 184 (ii) interference with a peace officer while making a lawful arrest under Section
- 185 76-8-305 if the actor uses force against a peace officer;
- 186 (f) commits a homicide which would be aggravated murder, but the offense is reduced
- 187 pursuant to Subsection 76-5-202(4); or
- 188 (g) the actor commits aggravated murder, but special mitigation is established under
- 189 Section 76-5-205.5.

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

191 (b) A person who is convicted of murder shall be sentenced to imprisonment for an

192 indeterminate term of not less than 15 years and which may be for life.

193 (4) (a) It is an affirmative defense to a charge of murder or attempted murder that the

194 defendant caused the death of another or attempted to cause the death of another:

195 (i) under the influence of extreme emotional distress for which there is a reasonable

196 explanation or excuse; or

197 (ii) under a reasonable belief that the circumstances provided a legal justification or

198 excuse for his conduct although the conduct was not legally justifiable or excusable under the

199 existing circumstances.

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

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

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

203 (c) The reasonableness of an explanation or excuse under Subsection (4)(a)(i) or the

204 reasonable belief of the actor under Subsection (4)(a)(ii) shall be determined from the

205 viewpoint of a reasonable person under the then existing circumstances.

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

207 (i) murder to manslaughter; and

208 (ii) attempted murder to attempted manslaughter.

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

210 **76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of**

211 **any person, building, or vehicle -- Penalties.**

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

213 (i) from an automobile or other vehicle;

- 214 (ii) from, upon, or across any highway;
- 215 (iii) at any road signs placed upon any highways of the state;
- 216 (iv) at any communications equipment or property of public utilities including
- 217 facilities, lines, poles, or devices of transmission or distribution;
- 218 (v) at railroad equipment or facilities including any sign or signal;
- 219 (vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf
- 220 courses, boat ramps, and developed beaches; or
- 221 (vii) without written permission to discharge the dangerous weapon from the owner or
- 222 person in charge of the property within 600 feet of:
 - 223 (A) a house, dwelling, or any other building; or
 - 224 (B) any structure in which a domestic animal is kept or fed, including a barn, poultry
 - 225 yard, corral, feeding pen, or stockyard.

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

229 (2) ~~[A]~~ Except as provided in Subsection (3), a violation of any provision of [this
 230 section] Subsection (1) is a class B misdemeanor [unless the actor discharges].

231 (3) A person commits a felony offense subject to penalty under Subsection (4) if the
 232 person violates any provision of Subsection (1) by discharging a firearm under any of the
 233 following circumstances not amounting to criminal homicide or attempted criminal homicide[;
 234 in which case it is a third degree felony and the convicted person shall be sentenced to an
 235 enhanced minimum term of three years in prison]:

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

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

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

243 (4) A violation under Subsection (3):

244 (a) is a felony of the third degree, punishable by imprisonment for a term of not less

245 than three years nor more than five years, except as provided in Subsection (4)(b) or (c);

246 (b) that results in bodily injury to another is a felony of the second degree, punishable
 247 by imprisonment for a term of not less than three years nor more than 15 years, except as
 248 provided in Subsection (4)(c); or

249 (c) that results in serious bodily injury to another is a first degree felony, punishable by
 250 imprisonment for a term of not less than three years and which may be for life.

251 [~~3~~] (5) The court shall:

252 (a) notify the Driver License Division of the conviction for purposes of any revocation,
 253 denial, suspension, or disqualification of a driver license under [~~Section~~] Subsection
 254 53-3-220(1)(a)(xi); and

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

257 [~~4~~] (6) This section does not apply to a person who:

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

260 (b) [~~who~~] is performing official duties as provided in Sections 23-20-1.5 and
 261 76-10-523 and as otherwise provided by law[-]; or

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

263 (i) the discharge occurs at a firing range or training ground;

264 (ii) at no time after the discharge does the projectile that is discharged cross over or
 265 stop at a location other than within the boundaries of the firing range or training ground
 266 described in Subsection (6)(c)(i);

267 (iii) the discharge is made as practice or training for a lawful purpose;

268 (iv) the discharge and the location, time, and manner of the discharge are approved by
 269 the owner or operator of the firing range or training ground prior to the discharge; and

270 (v) the discharge is not made in violation of Subsection (3).

Legislative Review Note
 as of 7-6-07 2:41 PM

Office of Legislative Research and General Counsel

H.B. 14 - Discharge of Firearm Amendments

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.
