

1 **PENALTIES FOR FAILING TO SECURE A**
2 **LOAD OR LITTERING ON A HIGHWAY**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Patricia W. Jones**

6 House Sponsor: Sheryl L. Allen

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to failing to secure a load or littering on a highway.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ increases the fine for littering on a highway for a second or subsequent violation

13 within three years of a previous violation;

14 ▶ increases the fine for failing to properly secure a load when operating a motor
15 vehicle on a highway for certain violations;

16 ▶ provides that a portion of the fines and forfeitures collected in a justice court or
17 district court for a second or subsequent violation of failing to secure a load or
18 littering on a highway shall be remitted to the Transportation Fund; and

19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill takes effect on July 1, 2008.

24 **Utah Code Sections Affected:**

25 **AMENDS:**

26 **41-6a-1712**, as renumbered and amended by Laws of Utah 2005, Chapter 2

27 **41-6a-1713**, as renumbered and amended by Laws of Utah 2005, Chapter 2

28 **72-7-409**, as last amended by Laws of Utah 1998, Chapter 224 and renumbered and

30 amended by Laws of Utah 1998, Chapter 270

31 **78A-5-110**, as renumbered and amended by Laws of Utah 2008, Chapter 3

32 **78A-7-120**, as renumbered and amended by Laws of Utah 2008, Chapter 3

33 ENACTS:

34 **76-10-2701**, Utah Code Annotated 1953

35 **76-10-2702**, Utah Code Annotated 1953

36

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

38 Section 1. Section **41-6a-1712** is amended to read:

39 **41-6a-1712. Destructive or injurious materials on highways -- Throwing lighted
40 material from moving vehicle -- Enforcement officers.**

41 (1) A person may not throw, deposit, or discard, or [to] permit to be dropped, thrown,
42 deposited, or discarded on any public road[;]or highway[, park, recreation area, or other public
43 ~~or private land, or waterway,]~~ in the state, whether under state, county, municipal, or federal
44 ownership, any plastic container, glass bottle, glass, nails, tacks, wire, cans, barbed wire,
45 boards, trash or garbage, paper or paper products, or any other substance which would or
46 could:

47 (a) create a safety or health hazard on the public road or highway; or

48 (b) ~~mar or impair the scenic aspect or beauty of the [land in the state whether under~~
49 ~~private, state, county, municipal, or federal ownership without the permission of the owner or~~
50 ~~person having control or custody of the land] public road or highway.~~

51 (2) A person who drops, throws, deposits, or discards, or permits to be dropped,
52 thrown, deposited, or discarded, on any public road[;]or highway[, park, recreation area, or
53 ~~other public or private land or waterway]~~ any destructive, injurious, or unsightly material shall:

54 (a) immediately remove the material or cause it to be removed; and

55 (b) deposit the material in a receptacle designed to receive the material.

56 (3) A person distributing commercial handbills, leaflets, or other advertising shall take
57 whatever measures are reasonably necessary to keep the material from littering [public or

58 ~~private property or~~] public roadways or highways.

59 (4) A person removing a wrecked or damaged vehicle from a public road[;]or highway[;
60 ~~park, recreation area, or other public or private land~~] shall remove any glass or other injurious
61 substance dropped from the vehicle on the road or highway [~~or in the park, recreation area, or~~
62 ~~other public or private land~~].

63 (5) A person may not throw any lighted material from a moving vehicle.

64 (6) Except as provided in Section 72-7-409, any person transporting loose cargo by
65 truck, trailer, or other motor vehicle shall secure the cargo in a reasonable manner to prevent
66 the cargo from littering or spilling on both public and private property or public roadways.

67 [~~(7) A person in charge of a construction or demolition site shall take reasonable steps~~
68 ~~to prevent the accumulation of litter at the construction or demolition site.~~]

69 [(8)(a)] (7) A law enforcement officer as defined in Section 53-13-103, within the law
70 enforcement officer's jurisdiction[;]:

71 (a) shall enforce the provisions of this section[;]:

72 (b) [~~Each officer in Subsection (8)(a) is empowered to~~] may issue citations to a person
73 who violates any of the provisions of this section; and

74 (c) may serve and execute all warrants, citations, and other process issued by any court
75 in enforcing this section.

76 [~~(9) An operator of a park, campground, trailer park, drive-in restaurant, gasoline~~
77 ~~service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of~~
78 ~~industrial firms, marina, boat launching area, boat moorage and fueling station, public and~~
79 ~~private pier, beach, and bathing area shall maintain sufficient litter receptacles on the premises to~~
80 ~~accommodate the litter that accumulates.~~]

81 [(10)] (8) A municipality within its corporate limits and a county outside of incorporated
82 municipalities may enact local ordinances to carry out the provisions of this section.

83 Section 2. Section **41-6a-1713** is amended to read:

41-6a-1713. Penalty for littering on a highway.

85 (1) A person who violates any of the provisions of Section 41-6a-1712 is guilty of a

86 class C misdemeanor and shall be fined:

87 (a) not less than \$100 for [each] a violation[-]; or

88 (b) not less than \$250 for a second or subsequent violation within three years of a
89 previous violation of this section.

90 (2) The sentencing judge may require that the offender devote at least [four] eight hours
91 in cleaning up:

92 (a) litter caused by [him] the offender; and

93 (b) existing litter from a safe area designated by the sentencing judge.

94 Section 3. Section **72-7-409** is amended to read:

95 **72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening**
96 **load required -- Penalty.**

97 (1) As used in this section:

98 (a) "Agricultural product" means any raw product which is derived from agriculture,
99 including silage, hay, straw, grain, manure, and other similar product.

100 (b) "Vehicle" has the same meaning set forth in Section 41-1a-102.

101 (2) A vehicle may not be operated or moved on any highway unless the vehicle is
102 constructed or loaded to prevent its contents from dropping, sifting, leaking, or otherwise
103 escaping.

104 (3) (a) In addition to the requirements under Subsection (2), a vehicle carrying dirt,
105 sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or
106 scrap metal shall have a covering over the entire load unless:

107 (i) the highest point of the load does not extend above the top of any exterior wall or
108 sideboard of the cargo compartment of the vehicle; and

109 (ii) the outer edges of the load are at least six inches below the top inside edges of the
110 exterior walls or sideboards of the cargo compartment of the vehicle.

111 (b) In addition to the requirements under Subsection (2), a vehicle carrying trash or
112 garbage shall have a covering over the entire load.

113 (c) The following material is exempt from the provisions of Subsection (3)(a):

114 (i) hot mix asphalt;
115 (ii) construction debris or scrap metal if the debris or scrap metal is a size and in a form
116 not susceptible to being blown out of the vehicle;
117 (iii) material being transported across a highway between two parcels of property that
118 would be contiguous but for the highway that is being crossed; and
119 (iv) material listed under Subsection (3)(a) that is enclosed on all sides by containers,
120 bags, or packaging.

121 [~~(e)~~] (d) A chemical substance capable of coating or bonding a load so that the load is
122 confined on a vehicle, may be considered a covering for purposes of Subsection (3)(a) so long
123 as the chemical substance remains effective at confining the load.

124 (4) Subsections (2) and (3) do not apply to a vehicle or implement of husbandry
125 carrying an agricultural product, if the agricultural product is:

126 (a) being transported in a manner which is not a hazard or a potential hazard to the safe
127 operation of the vehicle or to other highway users; and
128 (b) loaded in a manner that only allows minimal spillage.

129 (5) (a) An authorized vehicle performing snow removal services on a highway is exempt
130 from the requirements of this section if the vehicle's load is screened to a particle size
131 established by a rule of the department.

132 (b) This section does not prohibit the necessary spreading of any substance connected
133 with highway maintenance, construction, securing traction, or snow removal.

134 (6) A person may not operate a vehicle with a load on any highway unless the load and
135 any load covering is fastened, secured, and confined to prevent the covering or load from
136 becoming loose, detached, or in any manner a hazard to the safe operation of the vehicle, or to
137 other highway users.

138 (7) Before entering a highway, the operator of a vehicle carrying any material listed
139 under Subsection (3), shall remove all loose material on any portion of the vehicle not designed
140 to carry the material.

141 (8) (a) Any person who violates this section is guilty of a class B misdemeanor.

142 (b) A person who violates a provision of this section shall be fined not less than:

143 (i) \$100 for a violation; or

144 (ii) \$250 for a second or subsequent violation within three years of a previous violation

145 of this section.

146 (c) A person who violates a provision of this section while operating a commercial
147 vehicle as defined in Section 72-9-102 shall be fined:

148 (i) not less than \$250 for a violation; or
149 (ii) \$500 for a second or subsequent violation within three years of a previous violation
150 of this section.

151 Section 4. Section **76-10-2701** is enacted to read:

Part 27. Littering

153 **76-10-2701.** Destructive or injurious materials on parks, recreation areas,
154 waterways, or other public or private lands -- Enforcement officers -- Litter receptacles
155 required.

156 (1) A person may not throw, deposit, or discard, or permit to be dropped, thrown,
157 deposited, or discarded on any park, recreation area, or other public or private land, or
158 waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage,
159 paper or paper products, or any other substance which would or could mar or impair the scenic
160 aspect or beauty of the land in the state whether under private, state, county, municipal, or
161 federal ownership without the permission of the owner or person having control or custody of
162 the land.

163 (2) A person who drops, throws, deposits, or discards, or permits to be dropped,
164 thrown, deposited, or discarded, on any park, recreation area, or other public or private land or
165 waterway any destructive, injurious, or unsightly material shall:

166 (a) immediately remove the material or cause it to be removed; and
167 (b) deposit the material in a receptacle designed to receive the material.

168 (3) A person distributing commercial handbills, leaflets, or other advertising shall take
169 whatever measures are reasonably necessary to keep the material from littering public or private

170 property.

171 (4) A person removing a wrecked or damaged vehicle from a park, recreation area, or
172 other public or private land shall remove any glass or other injurious substance dropped from
173 the vehicle in the park, recreation area, or other public or private land.

174 (5) A person in charge of a construction or demolition site shall take reasonable steps to
175 prevent the accumulation of litter at the construction or demolition site.

176 (6) A law enforcement officer as defined in Section 53-13-103, within the law
177 enforcement officer's jurisdiction:

178 (a) shall enforce the provisions of this section;

179 (b) may issue citations to a person who violates any of the provisions of this section;
180 and

181 (c) may serve and execute all warrants, citations, and other processes issued by any
182 court in enforcing this section.

183 (7) An operator of a park, campground, trailer park, drive-in restaurant, gasoline
184 service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of
185 industrial firms, marina, boat launching area, boat moorage and fueling station, public and
186 private pier, beach, and bathing area shall maintain sufficient litter receptacles on the premises to
187 accommodate the litter that accumulates.

188 (8) A municipality within its corporate limits and a county outside of incorporated
189 municipalities may enact local ordinances to carry out the provisions of this section.

190 Section 5. Section **76-10-2702** is enacted to read:

191 **76-10-2702. Penalty for littering on a park, recreation area, waterway, or other
192 public or private land.**

193 (1) A person who violates any of the provisions of Section 76-10-2701 is guilty of a
194 class C misdemeanor and shall be fined not less than \$100 for each violation.

195 (2) The sentencing judge may require that the offender devote at least four hours in
196 cleaning up:

197 (a) litter caused by the offender; and

198 (b) existing litter from a safe area designated by the sentencing judge.

199 Section 6. Section **78A-5-110** is amended to read:

200 **78A-5-110. Allocation of district court fees and forfeitures.**

201 (1) Except as provided in this section, district court fines and forfeitures collected for
202 violation of state statutes shall be paid to the state treasurer.

203 (2) Fines and forfeitures collected by the court for violation of a state statute or county
204 or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the
205 state treasurer and 1/2 to the treasurer of the state or local governmental entity which
206 prosecutes or which would prosecute the violation.

207 (3) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of
208 Utah, Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act,
209 shall be paid to the state treasurer.

210 (a) For violations of Title 23, the state treasurer shall allocate 85% to the Division of
211 Wildlife Resources and 15% to the General Fund.

212 (b) For violations of Title 41, Chapter 22, or Title 73, Chapter 18, the state treasurer
213 shall allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.

214 (4) Fines and forfeitures collected for violation of Section 72-7-404 or 72-7-406, less
215 fees established by the Judicial Council, shall be paid to the state treasurer for deposit in the B
216 and C road account. Fees established by the Judicial Council shall be deposited in the state
217 General Fund. Money deposited in the class B and C road account is supplemental to the
218 money appropriated under Section 72-2-107 but shall be expended in the same manner as other
219 class B and C road funds.

220 [~~(5) Until July 1, 2007, fines and forfeitures collected by the court for a violation of
221 Subsection 41-1a-1303(2) related to registration of vehicles after establishing residency shall be
222 remitted:]~~]

223 [~~(a) 50% to the state or local governmental entity which issued the citation for a
224 violation to be used for law enforcement purposes; and]~~]

225 [~~(b) 50% in accordance with Subsection (2).~~]

226 (5) (a) Fines and forfeitures collected by the court for a second or subsequent violation
227 under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

228 (i) 60% to the state treasurer to be deposited in the Transportation Fund; and
229 (ii) 40% in accordance with Subsection (2).

230 (b) Fines and forfeitures collected by the court for a second or subsequent violation
231 under Subsection 72-7-409(8)(c) shall be remitted:

232 (i) 50% to the state treasurer to be deposited in the Transportation Fund; and
233 (ii) 50% in accordance with Subsection (2).

234 (6) Fines and forfeitures collected for any violations not specified in this chapter or
235 otherwise provided for by law shall be paid to the state treasurer.

236 (7) Fees collected in connection with civil actions filed in the district court shall be paid
237 to the state treasurer.

238 (8) The court shall remit money collected in accordance with Title 51, Chapter 7, State
239 Money Management Act.

240 Section 7. Section **78A-7-120** is amended to read:

241 **78A-7-120. Disposition of fines.**

242 (1) Except as otherwise specified by this section, fines and forfeitures collected by a
243 justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the
244 court and 1/2 to the treasurer of the local government which prosecutes or which would
245 prosecute the violation.

246 (2) (a) For violation of Title 23, the court shall allocate 85% to the Division of Wildlife
247 Resources and 15% to the general fund of the city or county government responsible for the
248 justice court.

249 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter
250 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and
251 15% to the general fund of the city or county government responsible for the justice court.

252 (3) The surcharge established by Section 63-63a-1 shall be paid to the state treasurer.

253 (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice

254 court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations
255 and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial
256 Council, shall be paid to the state treasurer and distributed to the class B and C road account.

257 (5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is
258 supplemental to the money appropriated under Section 72-2-107 but shall be expended in the
259 same manner as other class B and C road funds.

260 ~~[(6) Until July 1, 2007, fines and forfeitures collected by the court for a violation of
261 Subsection 41-1a-1303(2) related to registration of vehicles after establishing residency shall be
262 remitted.]~~

263 ~~[(a) 50% to the state or local governmental entity which issued the citation for a
264 violation to be used for law enforcement purposes; and]~~

265 ~~[(b) 50% in accordance with Subsection (1).]~~

266 (6) (a) Fines and forfeitures collected by the court for a second or subsequent violation
267 under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

268 (i) 60% to the state treasurer to be deposited in the Transportation Fund; and

269 (ii) 40% in accordance with Subsection (1).

270 (d) Fines and forfeitures collected by the court for a second or subsequent violation
271 under Subsection 72-7-409(8)(c) shall be remitted:

272 (i) 50% to the state treasurer to be deposited in the Transportation Fund; and

273 (ii) 50% in accordance with Subsection (1).

274 **Section 8. Effective date.**

275 This bill takes effect on July 1, 2008.