

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

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patricia W. Jones

House Sponsor: Sheryl L. Allen

LONG TITLE

Committee Note:

The Transportation Interim Committee recommended this bill.

General Description:

This bill modifies the Motor Vehicles Code, Criminal Code, and Transportation Code by amending provisions relating to failing to secure a load or littering on a highway.

Highlighted Provisions:

This bill:

- ▶ increases the fine for littering on a highway for a second or subsequent violation within three years of a previous violation;
- ▶ increases the fine for failing to properly secure a load when operating a motor vehicle on a highway for certain violations;
- ▶ creates the State Highway Litter Control Restricted Account;
- ▶ provides that funds in the State Highway Litter Control Restricted Account shall be used for:
 - a public education program that informs the public of the requirements of and penalties for failing to secure a load or littering on a highway; and
 - paying the costs of picking up litter and other debris on a state highway;
- ▶ authorizes the Department of Transportation to make rules implementing a program to allow a person to report a secured load or litter violation;



28 ▶ provides that a portion of the fines and forfeitures collected in a justice court or
29 district court for a second or subsequent violation of failing to secure a load or
30 littering on a highway shall be remitted to the State Highway Litter Control
31 Restricted Account; and
32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill takes effect on July 1, 2008.

37 **Utah Code Sections Affected:**

38 **AMENDS:**

39 **41-6a-1712**, as renumbered and amended by Laws of Utah 2005, Chapter 2

40 **41-6a-1713**, as renumbered and amended by Laws of Utah 2005, Chapter 2

41 **72-7-409**, as last amended by Laws of Utah 1998, Chapter 224 and renumbered and
42 amended by Laws of Utah 1998, Chapter 270

43 **78-3-14.5**, as last amended by Laws of Utah 2004, Chapters 273 and 349

44 **78-5-116**, as last amended by Laws of Utah 2004, Chapters 273 and 349

45 **ENACTS:**

46 **72-2-126**, Utah Code Annotated 1953

47 **76-10-2701**, Utah Code Annotated 1953

48 **76-10-2702**, Utah Code Annotated 1953

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

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

52 **41-6a-1712. Destructive or injurious materials on highways -- Throwing lighted**
53 **material from moving vehicle -- Enforcement officers.**

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

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

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

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

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

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

68 (3) A person distributing commercial handbills, leaflets, or other advertising shall take
69 whatever measures are reasonably necessary to keep the material from littering [public or
70 private property or] public roadways or highways.

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

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

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

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

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

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

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

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

88 ~~[(9) An operator of a park, campground, trailer park, drive-in restaurant, gasoline~~
89 ~~service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of~~

industrial firms, marina, boat launching area, boat moorage and fueling station, public and private pier, beach, and bathing area shall maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates.]

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

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

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

(1) A person who violates any of the provisions of Section 41-6a-1712 is guilty of a class C misdemeanor and shall be fined:

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

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

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

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

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

Section 3. Section **72-2-126** is enacted to read:

72-2-126. State Highway Litter Control Restricted Account -- Revenue -- Nonlapsing.

(1) There is created a restricted account within the General Fund known as the "State Highway Litter Control Restricted Account."

(2) The account shall be funded from the following sources:

(a) finances and forfeitures remitted to the account in accordance with Sections 78-3-14.5 and 78-5-116;

(b) appropriations made to the account by the Legislature; and

(c) contributions from other public and private sources for deposit into the account.

(3) (a) The account shall earn interest.

(b) All interest earned on account monies shall be deposited into the account.

(4) All monies appropriated to the account are nonlapsing.

(5) The Legislature shall appropriate money in the account to the department.

121 (6) The commission may authorize the monies deposited into the account to be spent
122 by the department to pay the costs of:

123 (a) a public education campaign or program that informs the public of the requirements
124 of and penalties for failing to secure a load or littering on a highway; and

125 (b) picking up litter and other roadway debris on a state highway.

126 Section 4. Section **72-7-409** is amended to read:

127 **72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening**
128 **load required -- Penalty.**

129 (1) As used in this section:

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

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

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

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

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

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

143 (b) The following material is exempt from the provisions of Subsection (3)(a):

144 (i) hot mix asphalt;

145 (ii) [~~construction debris or~~] scrap metal if the [~~debris or~~] scrap metal is a size and in a
146 form not susceptible to being blown out of the vehicle;

147 (iii) material being transported across a highway between two parcels of property that
148 would be contiguous but for the highway that is being crossed; and

149 (iv) material listed under Subsection (3)(a) that is enclosed on all sides by containers,
150 bags, or packaging.

151 (c) A chemical substance capable of coating or bonding a load so that the load is

confined on a vehicle, may be considered a covering for purposes of Subsection (3)(a) so long as the chemical substance remains effective at confining the load.

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

(a) being transported in a manner which is not a hazard or a potential hazard to the safe operation of the vehicle or to other highway users; and

(b) loaded in a manner that only allows minimal spillage.

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

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

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

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

(8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department may make rules implementing a program that allows a person to report a violation of this section or Section 41-6a-1712.

~~[(8)]~~ (9) (a) Any person who violates this section is guilty of a class B misdemeanor.

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

(i) \$100 for a violation; or

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

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

(i) not less than \$250 for a violation; or

(ii) \$500 for a second or subsequent violation within three years of a previous violation

of this section.

Section 5. Section **76-10-2701** is enacted to read:

Part 27. Littering

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

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

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

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

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

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

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

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

(6) A law enforcement officer as defined in Section 53-13-103:

(a) shall enforce the provisions of this section;

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

and

(c) may serve and execute all warrants, citations, and other processes issued by any

214 court in enforcing this section.

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

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

222 Section 6. Section **76-10-2702** is enacted to read:

223 **76-10-2702. Penalty for littering on a park, recreation area, waterway, or other**
224 **public or private land.**

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

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

229 (a) litter caused by the offender; and

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

231 Section 7. Section **78-3-14.5** is amended to read:

232 **78-3-14.5. Allocation of district court fees and forfeitures.**

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

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

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

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

244 (b) For violations of Title 41, Chapter 22, or Title 73, Chapter 18, the state treasurer

shall allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.

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

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

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

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

(5) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(9)(b) shall be remitted:

(i) 60% to the State Highway Litter Control Restricted Account created by Section 72-2-126; and

(ii) 40% in accordance with Subsection (2).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(9)(c) shall be remitted:

(i) 50% to the State Highway Litter Control Restricted Account created by Section 72-2-126; and

(ii) 50% in accordance with Subsection (2).

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

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

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

Section 8. Section **78-5-116** is amended to read:

78-5-116. Disposition of fines.

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

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

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

(c) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(9)(b) shall be remitted:

(i) 60% to the State Highway Litter Control Restricted Account created by Section 72-2-126; and

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

(d) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(9)(c) shall be remitted:

(i) 50% to the State Highway Litter Control Restricted Account created by Section 72-2-126; and

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

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

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and distributed to the class B and C road account.

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

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

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

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

310 Section 9. **Effective date.**

311 This bill takes effect on July 1, 2008.

Legislative Review Note
as of 11-19-07 10:18 AM

Office of Legislative Research and General Counsel

S.B. 44 - Penalties for Failing to Secure a Load or Littering on a Highway

Fiscal Note

2008 General Session

State of Utah

State Impact

Provisions of this bill increases fines for littering on highways. It is unknown at this time how much revenue will be available in the "General Fund Restricted - State Highway Litter Control Restricted Account" created by the bill from those fines. The bill directs the Department of Transportation to use monies deposited to the account for public education about littering and picking up litter and other roadway debris on state highways. The extent of educational programs and cleanups by DOT will be sized to the funding available.

Individual, Business and/or Local Impact

Enactment of this bill will likely cost individuals and businesses if they are cited for littering. Local governments could receive additional fines from those cited.