

Senator Patricia W. Jones proposes the following substitute bill:

**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

General Description:

This bill amends 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;
- ▶ authorizes the Department of Transportation to make rules implementing a program to allow a person to report a secured load or litter violation;
- ▶ provides that a portion of the fines and forfeitures collected in a justice court or district court for a second or subsequent violation of failing to secure a load or littering on a highway shall be remitted to the Transportation Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 This bill takes effect on July 1, 2008.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **41-6a-1712**, as renumbered and amended by Laws of Utah 2005, Chapter 2

30 **41-6a-1713**, as renumbered and amended by Laws of Utah 2005, Chapter 2

31 **72-7-409**, as last amended by Laws of Utah 1998, Chapter 224 and renumbered and
32 amended by Laws of Utah 1998, Chapter 270

33 **78A-5-110**, as renumbered and amended by Laws of Utah 2008, Chapter 3

34 **78A-7-120**, as renumbered and amended by Laws of Utah 2008, Chapter 3

35 ENACTS:

36 **76-10-2701**, Utah Code Annotated 1953

37 **76-10-2702**, Utah Code Annotated 1953



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

86 **41-6a-1713. Penalty for littering on a highway.**

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

88 class C misdemeanor and shall be fined:

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

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

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

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

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

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

97 **72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening**
98 **load required -- Penalty.**

99 (1) As used in this section:

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

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

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

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

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

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

113 (b) 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
116 form 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 (c) 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
130 exempt 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) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
142 department may make rules implementing a program that allows a person to report a violation
143 of this section or Section 41-6a-1712.

144 [~~8~~] (9) (a) Any person who violates this section is guilty of a class B misdemeanor.

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

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

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

149 (c) A person who violates a provision of this section while operating a commercial

150 vehicle as defined in Section 72-9-102 shall be fined:

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

152 (ii) \$500 for a second or subsequent violation within three years of a previous violation
153 of this section.

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

155 **Part 27. Littering**

156 **76-10-2701. Destructive or injurious materials on parks, recreation areas,**
157 **waterways, or other public or private lands -- Enforcement officers -- Litter receptacles**
158 **required.**

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

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

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

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

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

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

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

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

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

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

183 and

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

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

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

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

194 **76-10-2702. Penalty for littering on a park, recreation area, waterway, or other**
195 **public or private land.**

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

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

200 (a) litter caused by the offender; and

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

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

203 **78A-5-110. Allocation of district court fees and forfeitures.**

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

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

210 (3) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code
211 of Utah, Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating

212 Act, shall be paid to the state treasurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

244 **78A-7-120. Disposition of fines.**

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

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

252 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter
253 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and
254 15% to the general fund of the city or county government responsible for the justice court.

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

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

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

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

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

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

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

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

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

273 (d) Fines and forfeitures collected by the court for a second or subsequent violation

274 under Subsection 72-7-409(9)(c) shall be remitted:

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

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

277 **Section 8. Effective date.**

278 This bill takes effect on July 1, 2008.

Fiscal Note**S.B. 44 1st Sub. (Green) - Penalties for Failing to Secure a Load or Littering
on a Highway**

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 Transportation Fund from those fines.

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.
