

1 **HAZING PENALTIES**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Carol Spackman Moss**

5 Senate Sponsor: Patricia W. Jones

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Utah Criminal Code related to hazing.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides a penalty for a charge of hazing when an alcoholic product, drug, or other  
13 substance is involved; ~~H→~~ **and**

14 [~~→~~ ~~prohibits a court from allowing a defendant from entering a plea in abeyance related~~  
15 ~~to a hazing charge if the hazing results in the death of a person; and~~] ~~←H~~

16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **76-5-107.5**, as last amended by Laws of Utah 2008, Chapter 292

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

26 Section 1. Section **76-5-107.5** is amended to read:

27 **76-5-107.5. Prohibition of "hazing" -- Definitions -- Penalties.**



28 (1) A person is guilty of hazing if that person intentionally, knowingly, or recklessly  
 29 commits an act or causes another to commit an act that:

30 (a) (i) endangers the mental or physical health or safety of another;

31 (ii) involves any brutality of a physical nature such as whipping, beating, branding,  
 32 calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or  
 33 exposure to the elements;

34 (iii) involves consumption of any food, [~~liquor~~] alcoholic product, drug, or other  
 35 substance or any other physical activity that endangers the mental or physical health and safety  
 36 of an individual; or

37 (iv) involves any activity that would subject the individual to extreme mental stress,  
 38 such as sleep deprivation, extended isolation from social contact, or conduct that subjects  
 39 another to extreme embarrassment, shame, or humiliation; and

40 (b) (i) is for the purpose of initiation, admission into, affiliation with, holding office in,  
 41 or as a condition for continued membership in any organization; or

42 (ii) if the actor knew that the victim is a member of or candidate for membership with a  
 43 school team or school organization to which the actor belongs or did belong within the  
 44 preceding two years.

45 (2) It is not a defense to prosecution of hazing that a person under 21, against whom  
 46 the hazing was directed, consented to or acquiesced in the hazing activity.

47 (3) An actor who hazes another is guilty of a:

48 (a) class B misdemeanor ~~H→~~ [if there are no aggravating circumstances] except as  
 48a provided in Subsection (3)(b), (c), (d), or (e) ←H ;

49 (b) class A misdemeanor if the act involves:

50 (i) the operation or other use of a motor vehicle;

51 (ii) the ~~H→~~ [use] consumption ←H of H→ an ←H alcoholic product as defined in  
 51a Section 32A-1-105; or

52 (iii) the ~~H→~~ [use] consumption ←H of a drug or a substance as defined in Section  
 52a 76-5-113;

53 (c) third degree felony if the act involves the use of a dangerous weapon as defined in  
 54 Section 76-1-601;

55 (d) third degree felony if the hazing results in serious bodily injury to a person; or

56 (e) second degree felony if hazing under Subsection (3)(d) involves the use of a  
 57 dangerous weapon as defined in Section 76-1-601.

58 ~~H→ [(4)(a) The sentencing court may not allow a person charged with hazing pursuant to~~

59 ~~this section to enter a plea in abeyance to the charge if the hazing resulted in the death of a~~  
60 ~~person.]~~

61 [F] (4) [f] [~~fb~~] ←H A person who in good faith reports or participates in reporting of an  
61a alleged

62 hazing is not subject to any civil or criminal liability regarding the reporting.

63 (5) (a) This section does not apply to military training or other official military  
64 activities.

65 (b) Military conduct is governed by Title 39, Chapter 6, Utah Code of Military Justice.

66 (6) (a) A prosecution under this section does not bar a prosecution of the actor for:

67 (i) any other offense for which the actor may be liable as a party for conduct committed  
68 by the person hazed; or

69 (ii) any offense, caused in the course of the hazing, that the actor commits against the  
70 person who is hazed.

71 (b) Under Subsection (6)(a)(i) a person may be separately punished, both for the hazing  
72 offense and the conduct committed by the person hazed.

73 (c) Under Subsection (6)(a)(ii) a person may not be punished both for hazing and for  
74 the other offense, but shall be punished for the offense carrying the greater maximum penalty.

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**Legislative Review Note**  
as of 2-4-10 4:55 PM

**Office of Legislative Research and General Counsel**

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**H.B. 138 - Hazing Penalties**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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