

HAZING PENALTIES

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Patricia W. Jones

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides a penalty for a charge of hazing when an alcoholic product, drug, or other substance is involved;
- ▶ prohibits a court from allowing a defendant from entering a plea in abeyance related to a hazing charge if the hazing results in the death of a person; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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 if there are no aggravating circumstances;

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

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

51 (ii) the use of alcoholic product as defined in Section 32A-1-105; or

52 (iii) the use of a drug or a substance as defined in Section 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 (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 [~~4~~] (b) A person who in good faith reports or participates in reporting of an 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.

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

Office of Legislative Research and General Counsel

H.B. 138 - Hazing Penalties

Fiscal Note

2010 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.
