

HB0458S01 compared with HB0458

~~{deleted text}~~ shows text that was in HB0458 but was deleted in HB0458S01.

inserted text shows text that was not in HB0458 but was inserted into HB0458S01.

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~~{CRIMINAL CODE FORMAT}~~ Representative Sandra Hollins proposes the following substitute bill:

UTAH CRIMINAL AND TRAFFIC CODE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sandra Hollins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code and provisions regarding motor vehicles.

Highlighted Provisions:

This bill:

- ▶ modifies ~~{the format of}~~ certain criminal and traffic provisions; and
- ▶ transfers the provisions of ~~{one}~~ code ~~{section}~~sections to ~~{another portion}~~other portions of the Utah Code and repeals the ~~{section}~~sections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

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AMENDS:

- 41-6a-1302, as last amended by Laws of Utah 2015, Chapter 412
- 41-6a-1712, as last amended by Laws of Utah 2008, Chapter 22
- 41-12a-303.2, as last amended by Laws of Utah 2015, Chapter 412
- 76-6-902, as last amended by Laws of Utah 2006, Chapter 111
- 76-8-1402, as enacted by Laws of Utah 2004, Chapter 107
- 76-9-702.7, as last amended by Laws of Utah 2004, Chapter 52
- 76-10-104, as last amended by Laws of Utah 2010, Chapter 114
- 76-10-112, as enacted by Laws of Utah 1989, Chapter 193

REPEALS:

- 41-6a-1713, as last amended by Laws of Utah 2015, Chapter 412
- 76-6-903, as last amended by Laws of Utah 2013, Chapter 394

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

Section 1. Section **41-6a-1302** is amended to read:

41-6a-1302. School bus -- Signs and light signals -- Flashing amber lights -- Flashing red lights -- Passing school bus -- Duty to stop -- Travel in opposite direction -- Penalties.

(1) A school bus, when operated for the transportation of school children, shall:

(a) bear on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height, which shall be removed or covered when the vehicle is not in use for the transportation of school children; and

(b) be equipped with alternating flashing amber and red light signals visible from the front and rear, of a type approved and mounted as required under Section 41-6a-1301 and prescribed by the department under Section 41-6a-1601.

(2) A violation of Subsection (1) is an infraction.

~~[(2)]~~ (3) The operator of a vehicle on a highway, upon meeting or overtaking a school bus equipped with signals required under this section which is displaying alternating flashing:

(a) amber warning light signals, shall slow the vehicle, but may proceed past the school bus using due care and caution at a speed not greater than specified in Subsection 41-6a-601(2) for school zones for the safety of the school children that may be in the vicinity; or

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(b) red light signals visible from the front or rear, shall stop immediately before reaching the bus and may not proceed until the flashing red light signals cease operation.

(4) (a) A violation of Subsection (3) is a class C misdemeanor and the following minimum fines apply:

(i) \$100 for a first offense;

(ii) \$200 for a second offense within three years of a previous conviction or bail forfeiture; and

(iii) \$500 for a third offense or subsequent offense within three years of a previous conviction or bail forfeiture.

(b) The court may order the offender to perform compensatory service in lieu of the fine or any portion of the fine under Subsection (4)(a) if the court makes the reasons for the waiver part of the record.

~~[(3)]~~ (5) The operator of a vehicle need not stop upon meeting or passing a school bus displaying alternating flashing red light signals if the school bus is traveling in the opposite direction when:

(a) traveling on a divided highway;

(b) the bus is stopped at an intersection or other place controlled by a traffic-control signal or by a peace officer; or

(c) on a highway of five or more lanes, which may include a left-turn lane or two-way left turn lane.

~~{~~ (6) A violation of Subsection (5) is a class C misdemeanor, and the following minimum fines apply:

~~_____~~ (a) \$100 for a first offense;

~~_____~~ (b) \$200 for a second offense within three years of a previous conviction or bail forfeiture; and

~~_____~~ (c) \$500 for a third or subsequent offense within three years of a previous conviction of bail forfeiture.

~~‡~~ ~~[(4)]~~ ~~(7;6)~~ (a) The operator of a school bus shall operate alternating flashing red light signals at all times when:

(i) children are unloading from a school bus to cross a highway;

(ii) a school bus is stopped for the purpose of loading children who must cross a

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highway to board the bus; or

(iii) it would be hazardous for vehicles to proceed past the stopped school bus.

(b) The alternating flashing red light signals may not be operated except:

(i) when the school bus is stopped for loading or unloading school children; or

(ii) for an emergency purpose.

~~(18;7)~~ A violation of Subsection ~~(17;6)~~ is an infraction.

~~(5) The~~ ~~(19;8)~~ (a) An operator of a school bus being operated on a highway [shall] who fails to have the headlights of the school bus lighted is guilty of an infraction and shall be fined \$50.

(b) The court may order the operator of a school bus who is guilty of an infraction to perform compensatory service in lieu of the fine or any portion of the fine if the court makes the reasons for the waiver part of the record.

~~[(6)(a) A violation of Subsection (2) or (3) is a class C misdemeanor and the minimum fine is:]~~

~~[(i) \$100 for a first offense;]~~

~~[(ii) \$200 for a second offense within three years of a previous conviction or bail forfeiture; and]~~

~~[(iii) \$500 for a third or subsequent offense within three years of a previous conviction or bail forfeiture.]~~

~~[(b) A violation of Subsection (5) is an infraction and the fine is \$50.]~~

~~[(c) The court may order the person to perform compensatory service in lieu of the fine or any portion of the fine if the court makes the reasons for the waiver part of the record.]~~

~~[(7) A violation of Subsection (1) or (4) is an infraction.]~~

~~(8)~~ ~~(10;9)~~ The Driver License Division shall develop and implement a record system to distinguish:

(a) a conviction or bail forfeiture under this section from other convictions; and

(b) between a first and subsequent conviction or bail forfeiture under this section.

Section 2. Section **41-6a-1712** is amended to read:

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

(1) A person may not throw, deposit, or discard, or permit to be dropped, thrown,

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deposited, or discarded on any public road or highway in the state, whether under state, county, municipal, or federal ownership, any plastic container, 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:

- (a) create a safety or health hazard on the public road or highway; or
- (b) mar or impair the scenic aspect or beauty of the public road or highway.

(2) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, on any public road or highway 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 roadways or highways.

(4) A person removing a wrecked or damaged vehicle from a public road or highway shall remove any glass or other injurious substance dropped from the vehicle on the road or highway.

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

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

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

- (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 process issued by any court in enforcing this section.

(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.

(9) A violation of Subsection (1), (2), (3), (4), (5), or (6) is an infraction and the

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offender shall be fined:

(a) not less than \$200 for a first violation; or

(b) not less than \$500 for a second or subsequent violation within three years of a

previous violation.

(10) The sentencing judge may require that the offender devote at least eight hours in

cleaning up:

(a) litter caused by the offender; and

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

Section 3. Section **41-12a-303.2** is amended to read:

41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) ~~[(a)(i)]~~ A person operating a motor vehicle shall:

~~[(A)]~~ (a) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

~~[(B)]~~ (b) display ~~[(i)]~~ evidence of owner's or operator's security upon demand of a peace officer.

(3) A violation of Subsection (2) is a class C misdemeanor and the fine shall be not less than:

(a) \$400 for a first offense; or

(b) \$1,000 for a second or subsequent offense.

~~[(ii)]~~ (4) A person is exempt from the requirements of Subsection (2)~~[(a)(i)]~~ if the person is operating:

~~[(A)]~~ (a) a government-owned or leased motor vehicle; or

~~[(B)]~~ (b) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

~~[(b)]~~ (5) Evidence of owner's or operator's security includes any one of the following:

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- [(+)] (a) a copy of the operator's valid:
 - [(A)] (i) insurance policy;
 - [(B)] (ii) insurance policy declaration page;
 - [(C)] (iii) binder notice;
 - [(D)] (iv) renewal notice; or
 - [(E)] (v) card issued by an insurance company as evidence of insurance;
- [(+)] (b) a certificate of insurance issued under Section 41-12a-402;
- [(+)] (c) a certified copy of a surety bond issued under Section 41-12a-405;
- [(+)] (d) a certificate of the state treasurer issued under Section 41-12a-406;
- [(+)] (e) a certificate of self-funded coverage issued under Section 41-12a-407; or
- [(+)] (f) information that the vehicle or driver is insured from the Uninsured Motorist

Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

[(+)] (6) A card issued by an insurance company as evidence of owner's or operator's security under Subsection [(2)(b)(i)(E)] (5)(a)(v) on or after July 1, 2014, may not display the owner's or operator's address on the card.

[(+)] (7) (a) A person may provide to a peace officer evidence of owner's or operator's security described in [this] Subsection [(2)] (5) in:

- [(A)] (i) a hard copy format; or
- [(B)] (ii) an electronic format using a mobile electronic device.

[(+)] (b) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection [(2)(+)] (7), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

[(+)] (c) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

[(+)] (8) (a) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection [(2)(b)(vi)] (5)(f) supercedes any evidence of owner's or operator's security described under Subsection [(2)(b)(i)(D) or (E)]

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~~(5)(a)(iv) or (v).~~

~~[(ii)] (b)~~ A peace officer may not cite or arrest a person for a violation of Subsection (2)~~[(a)]~~ if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

~~[(3)] (9)~~ It is an affirmative defense to a charge under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

~~[(4)] (10)~~ (a) Evidence of owner's or operator's security as defined under Subsection ~~[(2)(b)] (5)~~ or a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection ~~[(3)] (9)~~ and Section 41-12a-804.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection ~~[(4)] (10)~~(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection ~~[(3)] (9)~~.

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection ~~[(4)] (10)~~(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

~~[(5) A violation of this section is a class C misdemeanor, and the fine shall be not less than:]~~

~~[(a) \$400 for a first offense, and]~~

~~[(b) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture:]~~

~~[(6)] (11)~~ Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

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(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

Section 4. Section **76-6-902** is amended to read:

76-6-902. Prohibitions.

(1) It is unlawful for any person to intentionally alter, remove, injure, or destroy antiquities from state lands or private lands without the landowner's consent, or to counsel, procure, solicit, or employ any other person to do so.

(2) (a) A violation of Subsection (1) is a class B misdemeanor, except under Subsection (2)(b).

(b) A violation of Subsection (1) is a third degree felony if:

(i) the sum of the commercial or archeological value of the antiquities involved and the cost of the restoration and repair of the antiquities involved in the violation exceeds \$500; or

(ii) the violation is a second or subsequent violation of Subsection (1).

(c) A second or subsequent violation of Subsection (1) is a third degree felony.

~~[(2)]~~ (3) It is unlawful to:

(a) intentionally reproduce, rework, or forge any antiquities or make any object, whether copies or not, or falsely label, describe, identify, or offer for sale or exchange any object with the intent to represent the object as original and genuine~~[, nor may any person];~~

(b) offer any object for sale or exchange that was collected or excavated in violation of this ~~[chapter.]~~ part; or

(c) counsel, procure, solicit, or employ any other person to act in violation of this Subsection (3).

(4) A violation of Subsection (3) is a class B misdemeanor.

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(5) All articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section shall be surrendered to the landowner.

Section 5. Section **76-8-1402** is amended to read:

76-8-1402. Disruption of activities in or near school building -- Failure to leave -- Reentry -- Penalties.

(1) In the absence of a local ordinance or other controlling law governing the conduct described in this Subsection (1), a person is guilty of an offense under Subsection (2) who, while on a street, sidewalk, or public way adjacent to any school building or ground:

(a) by his or her presence or acts, materially disrupts the peaceful conduct of school activities; and

(b) remains upon the place under Subsection (1)(a) after being asked to leave by the chief administrator of that school.

(2) (a) The first and second violations of Subsection (1) are class B misdemeanors.

(b) A third and any subsequent violation of Subsection (1) is a class A misdemeanor.

~~[(2)-(a)]~~ (3) A violation of Subsection (1) is subject to the penalties under Subsection (2)~~[(b)]~~ unless the violation constitutes another offense subject to a greater penalty.

~~[(b) (i) The first and second violation of Subsection (1) are class B misdemeanors.]~~

~~[(ii) A third and any subsequent violations of Subsection (1) are class A misdemeanors.]~~

Section 6. Section **76-9-702.7** is amended to read:

76-9-702.7. Voyeurism offenses -- Penalties.

(1) A person is guilty of voyeurism who intentionally uses a camcorder, motion picture camera, photographic camera of any type, or other equipment that is concealed or disguised to secretly or surreptitiously videotape, film, photograph, record, or view by electronic means an individual:

(a) for the purpose of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

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(2) (a) A violation of Subsection (1) is a class A misdemeanor, except ~~[that a]~~ under Subsection (2)(b).

(b) A violation of Subsection (1) committed against a child under 14 years of age is a third degree felony.

(3) ~~[Distribution or sale of]~~ A person may not distribute or sell any images, including in print, electronic, magnetic, or digital format, obtained ~~[under]~~ in violation of Subsection (1), by transmission, display, or dissemination.

(4) (a) A violation of Subsection (3) is a third degree felony, except ~~[that if]~~ under Subsection (4)(b).

(b) If the violation of ~~[this]~~ Subsection (3) includes images of a child under 14 years of age, the violation is a second degree felony.

~~[(4)]~~ (5) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:

(a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

~~[(5)]~~ (6) (a) A violation of Subsection ~~[(4)]~~ (5) is a class B misdemeanor, except ~~[that a]~~ under Subsection (6)(b).

(b) A violation of Subsection ~~[(4)]~~ (5) committed against a child under 14 years of age is a class A misdemeanor.

Section 7. Section **76-10-104** is amended to read:

76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor -- Penalties.

(1) ~~[Any person who]~~ It is unlawful for a person to knowingly, intentionally, recklessly, or with criminal negligence ~~[provides]~~ provide any cigar, cigarette, electronic cigarette, or tobacco in any form, to any person under 19 years of age~~[, is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A~~

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~~misdemeanor on subsequent offenses~~].

(2) (a) A first violation of Subsection (1) is a class C misdemeanor.

(b) A second violation of Subsection (1) is a class B misdemeanor.

(c) A third and any subsequent violation of Subsection (1) is a class A misdemeanor.

~~[(2) For purposes of]~~

(3) As used in this section, "provides":

(a) includes selling, giving, furnishing, sending, or causing to be sent; and

(b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

Section 8. Section **76-10-112** is amended to read:

76-10-112. Prohibition of distribution of cigarettes or other tobacco products --

Exceptions.

(1) Except as provided in Subsection ~~[(2)]~~ (3), it is unlawful for a manufacturer, wholesaler, or retailer to give or distribute cigarettes or other tobacco products in this state without charge. ~~[Any person who violates this subsection is guilty of a class C misdemeanor for the first offense and a class B misdemeanor for any subsequent offense.]~~

(2) (a) A violation of Subsection (1) is a class C misdemeanor, except under Subsection (2)(b).

(b) A second and any subsequent violation of Subsection (1) is a class B misdemeanor.

~~[(2)]~~ (3) Cigarettes and other tobacco products may be distributed to adults without charge at professional conventions where the general public is excluded.

~~[(3)]~~ (4) The prohibition described in Subsection (1) does not apply to retailers, manufacturers, or distributors who give cigarettes or other tobacco products to persons of legal age upon their purchase of cigarettes or other tobacco products.

Section 9. **Repealer.**

This bill repeals:

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

Section **76-6-903, Penalties.**

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Legislative Review Note

Office of Legislative Research and General Counsel