

CIVIL DAMAGES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to liability for damages caused during a law enforcement pursuit.

Highlighted Provisions:

This bill:

- ▶ clarifies liability for damages caused during a person's flight or elusion from law enforcement;
- ▶ imposes additional penalties upon a person convicted of fleeing or eluding law enforcement, including revocation of the person's driver license and possible seizure and forfeiture of the motor vehicle used to flee or elude law enforcement;
- ▶ in determining liability for damages caused in an instance of flight or elusion from law enforcement, instructs the court not to consider the reasonable actions of a law enforcement officer;
- ▶ prohibits allocation of fault to a law enforcement officer if the law enforcement officer's actions were reasonable and in compliance with relevant law enforcement policies; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **41-6a-210**, as last amended by Laws of Utah 2018, Chapter 133

32 **78B-5-818**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

35 Section 1. Section **41-6a-210** is amended to read:

36 **41-6a-210. Failure to respond to officer's signal to stop -- Fleeing -- Causing**
37 **property damage or bodily injury -- Suspension of driver's license -- Forfeiture of vehicle**
38 **-- Penalties.**

39 (1) (a) An operator who receives a visual or audible signal from a law enforcement
40 officer to bring the vehicle to a stop may not:

41 (i) operate the vehicle in willful or wanton disregard of the signal so as to interfere with
42 or endanger the operation of any vehicle or person; or

43 (ii) attempt to flee or elude a law enforcement officer by vehicle or other means.

44 (b) (i) A person who violates Subsection (1)(a) is guilty of a felony of the third degree.

45 (ii) The court shall, as part of any sentence under this Subsection (1), impose a fine of
46 not less than \$1,000.

47 (2) (a) An operator who violates Subsection (1) and while so doing causes death or
48 serious bodily injury to another person, under circumstances not amounting to murder or
49 aggravated murder, is guilty of a felony of the second degree.

50 (b) The court shall, as part of any sentence under this Subsection (2), impose a fine of
51 not less than \$5,000.

52 (3) (a) In addition to the penalty provided under this section or any other section, a
53 person who violates Subsection (1)(a) or (2)(a) shall have the person's driver license revoked
54 under Subsection **53-3-220(1)(a)(ix)** for a period of one year.

55 (b) (i) The court shall forward the report of the conviction to the division.

56 (ii) If the person is the holder of a driver license from another jurisdiction, the division
57 shall notify the appropriate officials in the licensing state.

58 (4) (a) In addition to the penalties provided under this section or any other section, a

59 person who violates Subsection (1)(a) or (2)(a):

60 (i) is liable for any damages reasonably resulting from or caused in the course of their
61 actions amounting to a violation of Subsection (1)(a) or (2)(a); and

62 (ii) shall have the person's driver license revoked in accordance with Subsection
63 53-3-220(1)(a)(ix) for a period not less than a year.

64 (b) (i) Subject to Subsection (4)(b)(ii), a motor vehicle used in violation of Subsection
65 (1)(a) or (2)(a) is subject to seizure in accordance with Title 77, Chapter 11a, Part 2, Seizure of
66 Property and Contraband, and forfeiture in accordance with Title 77, Chapter 11b, Forfeiture of
67 Seized Property.

68 (ii) A motor vehicle that is stolen is not subject to seizure or forfeiture as described in
69 Subsection (4)(b)(i).

70 (c) In a civil action or any other action to determine liability for damages related to a
71 violation of Subsection (1)(a) or (2)(a), to determine causation of damages as described in
72 Subsection (4)(a), a court may not consider reasonable actions by law enforcement in the
73 court's analysis of comparative negligence.

74 Section 2. Section **78B-5-818** is amended to read:

75 **78B-5-818. Comparative negligence.**

76 (1) The fault of a person seeking recovery may not alone bar recovery by that person.

77 (2) A person seeking recovery may recover from any defendant or group of defendants
78 whose fault, combined with the fault of persons immune from suit and nonparties to whom
79 fault is allocated, exceeds the fault of the person seeking recovery prior to any reallocation of
80 fault made under Subsection **78B-5-819(2)**.

81 (3) No defendant is liable to any person seeking recovery for any amount in excess of
82 the proportion of fault attributed to that defendant under Section **78B-5-819**.

83 (4) (a) (i) The fact finder may, and when requested by a party shall, allocate the
84 percentage or proportion of fault attributable to each person seeking recovery, to each
85 defendant, to any person immune from suit, and to any other person identified under
86 Subsection **78B-5-821(4)** for whom there is a factual and legal basis to allocate fault.

87 (ii) In the case of a motor vehicle accident involving an unidentified motor vehicle, the
88 existence of the vehicle shall be proven by clear and convincing evidence which may consist
89 solely of one person's testimony.

90 (b) Any fault allocated to a person immune from suit is considered only to accurately
91 determine the fault of the person seeking recovery and a defendant and may not subject the
92 person immune from suit to any liability, based on the allocation of fault, in this or any other
93 action.

94 (c) In a case to determine restitution or damages related to a law enforcement pursuit of
95 a person that violates Subsection 41-6a-210(1)(a) or (2)(a), the finder of fact may not allocate
96 any fault to the law enforcement officer if the law enforcement officer:

97 (i) complies with the policies and procedures of the law enforcement agency relevant to
98 law enforcement pursuit as required in Section 41-6a-212; and

99 (ii) takes reasonable actions given the circumstances.

100 Section 3. **Effective date.**

101 This bill takes effect on May 1, 2024.