

Senator Ann Millner proposes the following substitute bill:

PEACE OFFICER AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill clarifies that it is unlawful to flee from a peace officer.

Highlighted Provisions:

This bill:

- ▶ clarifies failure to stop at the command of a law enforcement officer;
- ▶ changes the statute for failure to stop at the command of a law enforcement officer, to failure to stop at the command of a peace officer; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-210, as renumbered and amended by Laws of Utah 2005, Chapter 2

53-3-220, as last amended by Laws of Utah 2017, Chapter 181

76-8-305.5, as enacted by Laws of Utah 2005, Chapter 288

76-8-1403, as enacted by Laws of Utah 2009, Chapter 284



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

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

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

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

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

(ii) attempt to flee or elude a [~~peace~~] law enforcement officer by vehicle or other means.

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

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

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

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

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

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

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

Section 2. Section **53-3-220** is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter

57 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
58 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
59 receiving a record of the person's conviction for:

60 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
61 automobile homicide under Section 76-5-207 or 76-5-207.5;

62 (ii) driving or being in actual physical control of a motor vehicle while under the
63 influence of alcohol, any drug, or combination of them to a degree that renders the person
64 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
65 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

66 (iii) driving or being in actual physical control of a motor vehicle while having a blood
67 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
68 that complies with the requirements of Subsection 41-6a-510(1);

69 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
70 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
71 regulating driving on highways;

72 (v) any felony under the motor vehicle laws of this state;

73 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

74 (vii) failure to stop and render aid as required under the laws of this state if a motor
75 vehicle accident results in the death or personal injury of another;

76 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
77 driving and impaired driving committed within a period of 12 months; but if upon a first
78 conviction of reckless driving or impaired driving the judge or justice recommends suspension
79 of the convicted person's license, the division may after a hearing suspend the license for a
80 period of three months;

81 (ix) failure to bring a motor vehicle to a stop at the command of a ~~peace~~ law
82 enforcement officer as required in Section 41-6a-210;

83 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
84 requires disqualification;

85 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
86 allowing the discharge of a firearm from a vehicle;

87 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or

88 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

89 (xiii) operating or being in actual physical control of a motor vehicle while having any
90 measurable controlled substance or metabolite of a controlled substance in the person's body in
91 violation of Section 41-6a-517;

92 (xiv) operating or being in actual physical control of a motor vehicle while having any
93 measurable or detectable amount of alcohol in the person's body in violation of Section
94 41-6a-530;

95 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
96 violation of Section 41-6a-606;

97 (xvi) operating or being in actual physical control of a motor vehicle in this state
98 without an ignition interlock system in violation of Section 41-6a-518.2; or

99 (xvii) custodial interference, under:

100 (A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless
101 the court provides the division with an order of suspension for a shorter period of time;

102 (B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless
103 the court provides the division with an order of suspension for a shorter period of time; or

104 (C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless
105 the court provides the division with an order of suspension for a shorter period of time.

106 (b) The division shall immediately revoke the license of a person upon receiving a
107 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

108 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
109 allowing the discharge of a firearm from a vehicle; or

110 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
111 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

112 (c) Except when action is taken under Section 53-3-219 for the same offense, the
113 division shall immediately suspend for six months the license of a person upon receiving a
114 record of conviction for:

115 (i) any violation of:

116 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

117 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

118 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

- 119 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 120 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 121 (ii) any criminal offense that prohibits:
 - 122 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
 - 123 that is prohibited under the acts described in Subsection (1)(c)(i); or
 - 124 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
 - 125 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).
- 126 (d) (i) The division shall immediately suspend a person's driver license for conviction
- 127 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:
 - 128 (A) an order from the sentencing court requiring that the person's driver license be
 - 129 suspended; and
 - 130 (B) a record of the conviction.
- 131 (ii) An order of suspension under this section is at the discretion of the sentencing
- 132 court, and may not be for more than 90 days for each offense.
- 133 (e) (i) The division shall immediately suspend for one year the license of a person upon
- 134 receiving a record of:
 - 135 (A) conviction for the first time for a violation under Section 32B-4-411; or
 - 136 (B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation
 - 137 under Section 32B-4-411.
- 138 (ii) The division shall immediately suspend for a period of two years the license of a
- 139 person upon receiving a record of:
 - 140 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and
 - 141 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
 - 142 conviction for a violation under Section 32B-4-411; or
 - 143 (B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court
 - 144 Act of 1996, for a violation under Section 32B-4-411; and
 - 145 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
 - 146 adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under
 - 147 Section 32B-4-411.
- 148 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:
 - 149 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

150 (I) impose a suspension for one year beginning on the date of conviction; or
151 (II) if the person is under the age of eligibility for a driver license, impose a suspension
152 that begins on the date of conviction and continues for one year beginning on the date of
153 eligibility for a driver license; or
154 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
155 (I) impose a suspension for a period of two years; or
156 (II) if the person is under the age of eligibility for a driver license, impose a suspension
157 that begins on the date of conviction and continues for two years beginning on the date of
158 eligibility for a driver license.
159 (iv) Upon receipt of the first order suspending a person's driving privileges under
160 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
161 ordered by the court in accordance with Subsection 32B-4-411(3)(a).
162 (v) Upon receipt of the second or subsequent order suspending a person's driving
163 privileges under Section 32B-4-411, the division shall reduce the suspension period under
164 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).
165 (2) The division shall extend the period of the first denial, suspension, revocation, or
166 disqualification for an additional like period, to a maximum of one year for each subsequent
167 occurrence, upon receiving:
168 (a) a record of the conviction of any person on a charge of driving a motor vehicle
169 while the person's license is denied, suspended, revoked, or disqualified;
170 (b) a record of a conviction of the person for any violation of the motor vehicle law in
171 which the person was involved as a driver;
172 (c) a report of an arrest of the person for any violation of the motor vehicle law in
173 which the person was involved as a driver; or
174 (d) a report of an accident in which the person was involved as a driver.
175 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
176 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
177 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
178 or revocation originally imposed under Section 53-3-221.
179 (4) (a) The division may extend to a person the limited privilege of driving a motor
180 vehicle to and from the person's place of employment or within other specified limits on

181 recommendation of the judge in any case where a person is convicted of any of the offenses
182 referred to in Subsections (1) and (2) except:

- 183 (i) automobile homicide under Subsection (1)(a)(i);
- 184 (ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and
185 (1)(c); and
- 186 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
187 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
188 41-6a-517, a local ordinance which complies with the requirements of Subsection
189 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
190 was charged with violating as a result of a plea bargain after having been originally charged
191 with violating one or more of these sections or ordinances, unless:

- 192 (A) the person has had the period of the first denial, suspension, revocation, or
193 disqualification extended for a period of at least three years;
- 194 (B) the division receives written verification from the person's primary care physician
195 that:

- 196 (I) to the physician's knowledge the person has not used any narcotic drug or other
197 controlled substance except as prescribed by a licensed medical practitioner within the last
198 three years; and

- 199 (II) the physician is not aware of any physical, emotional, or mental impairment that
200 would affect the person's ability to operate a motor vehicle safely; and

- 201 (C) for a period of one year prior to the date of the request for a limited driving
202 privilege:

- 203 (I) the person has not been convicted of a violation of any motor vehicle law in which
204 the person was involved as the operator of the vehicle;

- 205 (II) the division has not received a report of an arrest for a violation of any motor
206 vehicle law in which the person was involved as the operator of the vehicle; and

- 207 (III) the division has not received a report of an accident in which the person was
208 involved as an operator of a vehicle.

- 209 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
210 authorized in this Subsection (4):

- 211 (A) is limited to when undue hardship would result from a failure to grant the

212 privilege; and

213 (B) may be granted only once to any person during any single period of denial,
214 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
215 or disqualification.

216 (ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

217 (A) is limited to when the limited privilege is necessary for the person to commute to
218 school or work; and

219 (B) may be granted only once to any person during any single period of denial,
220 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
221 or disqualification.

222 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
223 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
224 denied under this chapter.

225 Section 3. Section **76-8-305.5** is amended to read:

226 **76-8-305.5. Failure to stop at the command of a peace officer.**

227 A person is guilty of a class A misdemeanor who flees from or otherwise attempts to
228 elude a ~~[law enforcement]~~ peace officer:

229 (1) after the officer has issued a verbal or visual command to stop;

230 (2) for the purpose of avoiding arrest; and

231 (3) by any means other than a violation of Section **41-6a-210** regarding failure to stop a
232 vehicle at the command of a law enforcement officer.

233 Section 4. Section **76-8-1403** is amended to read:

234 **76-8-1403. Evading law enforcement by going onto school property -- Penalty --**
235 **Restitution.**

236 (1) As used in this section:

237 (a) "School" means any public or private kindergarten, elementary, or secondary school
238 through grade 12, including all buildings and property of the school.

239 (b) "School property" means real property:

240 (i) that is owned or occupied by a public or private school; or

241 (ii) (A) that is temporarily occupied by students for a school-related activity or
242 program; and

243 (B) regarding which, during the time the activity or program is being conducted, the
244 main use of the real property is allocated to participants in the activity or program.

245 (2) A person is guilty of the class A misdemeanor of evading law enforcement while on
246 school property, if the person enters onto school property when:

247 (a) students are attending the school or students are participating in any school-related
248 activity or program on school property; and

249 (b) the person is in the act of fleeing or evading, or attempting to flee or evade, pursuit
250 or apprehension by any peace officer.

251 (3) It is not a defense that the person did not know that the person had entered onto
252 school property.

253 (4) As a part of the sentence for violation of this section, the court shall order the
254 defendant to reimburse the school for costs incurred by the school in responding to the
255 defendant's presence on the school property.

256 (5) The offense under this section of evading law enforcement while on school
257 property is a separate offense from a violation of:

258 (a) Section 41-6a-210, regarding failure to respond to an officer's signal to stop; or

259 (b) Section 76-8-305.5, regarding failure to stop at the command of a [~~law~~
260 enforcement] peace officer.