

2013 LEGISLATIVE UPDATE

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A cooperative project of:

**Utah Prosecution Council
Statewide Association of Prosecutors
Davis County Attorney's Office
Layton City Attorney's Office
Salt Lake County District Attorney's Office
Summit County Attorney's Office
Utah Association of Counties
Utah Attorney General's Office**

Legislative Summary 2013 General Session

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This document is a publication of the Utah Prosecution Council

This publication constitutes summaries of legislation passed during the 2013 General Session of the Utah Legislature relating to criminal law and criminal procedure and to county and city government.

The publication contains summaries only, not the full text of bills. There is no substitute for reading the actual legislative language. Enrolled copies of bills passed during the 2013 General Legislative Session can be obtained by going to the Utah Legislature's web site: <http://le.utah.gov>. Please note that each bill number in this document is hyperlinked so that the enrolled copy may be accessed by clicking on the bill number. You may also call Utah Prosecution Council (UPC) at (801) 366-0202, or the Statewide Association of Prosecutors (SWAP) at (801) 366-7809. Either office will be glad to e-mail or fax a bill to you.

On or shortly after April 25, 2013, this publication will be downloadable from the Utah Prosecution Council web site: www.upc.utah.gov.

**UNLESS OTHERWISE INDICATED, LEGISLATION PASSED
DURING THE 2013 GENERAL LEGISLATIVE SESSION
BECOMES EFFECTIVE ON MAY 14, 2013.**

All legislation passed during the 2013 General Legislative Session is accessible over the Internet at the web site maintained by the office of Legislative Research and General Counsel: www.le.utah.gov. When accessing or downloading a bill from that website, put your cursor over “Bills” on the left side, then click on “Passed Bills.” On the information page that will then pop up, click on “Enrolled Copy.” That is the version that passed.

As of May 14, 2013, the effective date of most legislation passed during the 2013 general legislative session, the *ONLY* place one will be able to access an updated text of the Utah Code is on the Utah State Legislature’s web site: www.le.utah.gov. On the left side of the page is a column of links; move your cursor to “Utah Code/Constitution,” then click on “Title/Chapter/Section” or on “Utah Constitution.” Links to the various titles of the Utah Code or articles of the Utah Constitution will appear. Scroll down to the title or article in which you are interested and follow the links from there. If you want to do a word search for specific text, click on “Keyword Search” and follow the instructions.

A digest of all legislation, including effective dates, an index by subject matter, an index by bill number, a listing of bills which did not pass, and other useful material is also on the above cited legislative web page, and is published by:

The Office of Legislative Research and General Counsel
436 State Capitol Building
Salt Lake City, UT 84114

Phone: (801) 538-1032

The Utah Code 2013 Edition will contain all amendments made to the code during the 2013 General Session and any special sessions, together with a comprehensive index. It will likely become available in late summer. Utah Codes are published by both Lexis Law Publishing and Thomson-West. They can be contacted at:

<p>LexisNexis 620 East Timpanogos Circle Building H Orem, UT 84097</p> <p>Phone: (801) 354-8000 Web site: http://www.lexisnexis.com/store/catalog/catalog.jsp?pageName=catalogProducts&catId=993&id=404</p>	<p>Thomson Reuters Publishing 610 Opperman Drive Eagan, MN 55123</p> <p>Phone: (651) 687-7000 Web site: http://legalsolutions.thomsonreuters.com/law-products/search?q=utah+code&r=13001&s=KEYWORDSEARCH&x=18&y=7&</p>
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HOUSE BILLS

SEX OFFENSE AMENDMENTS

[HB 10](#)

Rep. Richard Greenwood

The original intent of this bill was to change from 10 years to 7 years the age difference required for a violation of 76-5-401.2 – Unlawful Sexual Conduct with a 16 or 17 Year Old. The desire for this policy change came from the representative rather than an interest group. As the process progressed, the matter became more complicated.

Although nearly everyone believed that mistake of age is not a defense to sexual activity with a minor, closer examination revealed that Section 76-2-304.5 – making mistake of age not a defense to certain offenses – did not include the section regarding 16 and 17 year olds. Once this came to light in legislative discussions which included the defense bar, it was clear that we would need to correct that issue – fast! Nonetheless legislators were not comfortable with strict liability as to the age difference when applied to the proposed standard of 7 years.

Therefore the bill does the following:

- 1st** Section 76-2-304.5 is amended to extend the strict liability with respect to the minor's age to Subsection 76-5-401.2(2)(a)(ii), which is the subsection regarding a 10 year age difference.
- 2nd** Section 76-5-401.2 – Unlawful Sexual Conduct, is amended to create a 3rd degree felony violation when a person who is 7 or more years older but less than 10 years older than the 16 or 17 year old minor engages in the listed sexual conduct and “the person knew or reasonably should have know the age of the minor.” Such conduct by a person 10 or more years older than the minor remains a 3rd degree felony except that there is now strict liability as to the age difference. The touching offenses are Class A Misdemeanors in either age difference group.

Amends: 76-2-304.5 and 76-5-401.2

Effective Date: March 22, 2013 (Upon being signed by the governor)

SMOKING WITH PASSENGER UNDER 15 YEARS OLD

[HB 13](#)

Rep. Patrice Arent

This bill makes it a secondary, infraction-level offense for a driver of a motor vehicle to smoke with a passenger under 15 years old, unless the vehicle is a convertible or open-body type vehicle and the roof is in the open-air mode. The maximum fine is \$45, which the court may suspend if the person has not previously been convicted of this offense and if the person proves to the court they have enrolled in a smoking cessation program. Until July 1, 2014, peace officers may not cite for this offense but instead shall warn drivers that smoking with a passenger under 15 is

prohibited. A violation of this section may not be used as evidence of child abuse or neglect.

Enacts: 41-6a-1717.

REQUIREMENTS TO CHANGE FORM OF COUNTY GOVERNMENT

HB 14

Rep. Keith Grover

This bill requires that a petition to change the form of a county government be signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for president of the United States. The current law requires signatures equal to at least 10% of the total number of votes cast in the last gubernatorial election.

Amends: 17-52-203 and 17-52-206

ELECTION CODE CRIMINAL PROVISIONS

HB 19

Rep. Keith Grover

This is one of several penalty provision cleanup bills run by the sentencing commission to remove odd sentencing schemes or language from the code and replace them with standard penalties. This bill cleans up violations of various provisions of the election law code at Title 20A (forging election returns, destroying ballots, etc.) so that the penalties are uniform with the rest of the code. It also removes outdated language that had prescribed which prosecutors (AG, county attorney, or municipal) could prosecute certain violations.

As an example of cleanup language, in “Election Returns - Forgery”, the crime is changed thusly:

~~“(2) [Each person who violates this section may be sentenced to imprisonment in the state prison for a term of not less than two nor more than 10 years]~~ A violation of this section is a third degree felony.”

Amends: 20A-4-501, 20A-4-502, 20A-5-701, 20A-5-702, 20A-5-705, 20A-7-213, 20A-7-312, 20A-7-512, 20A-8-103 and 20A-9-502

Repeals: 20A-4-503

UTAH RETIREMENT SYSTEM AMENDMENTS

HB 24

Rep. Don Ipson

- Prohibits a public employer from making retirement contributions to “double-dippers” that exceed the normal cost rate for other re-employed retirees;
- Makes changes in the retirement board’s administrative procedures;

- Makes changes in the provision of death benefits through a group insurance policy;
- Clarifies the termination of long time disability benefits; and
- Makes other investment and investing requirement changes.

Amends: 49-11-102, 49-11-504, 49-11-607, 49-11-612, 49-11-616, 49-11-617, 49-12-203, 49-12-204, 49-12-501, 49-13-203, 49-13-204, 49-13-501, 49-21, 102, 49-21-402, 49-21-403, 49-22-203, 49-22-401, 49-22-501, 49-23-401 and 49-23-501

THREAT OF TERRORISM PENALTY AMENDMENTS

HB 27

Rep. Erik Hutchings

Amends 76-5-107.3 as follows:

(1) A person commits a threat of terrorism if the person threatens to commit any offense involving bodily injury, death, or substantial property damage, and:

(a) . . .

(b) acts with intent to:

(I) . . . ;

(ii) . . . ; or

(iii) cause ~~[action of any nature by]~~ an official or volunteer agency organized to deal with emergencies to take action due to the person's conduct posing a serious and substantial risk to the general public.

(2) (a) . . .

(b) . . .

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

Before the amendment, a threat which resulted in any action by a public official or by an official volunteer, regardless of how insignificant that action may have been, could have been prosecuted as a class B misdemeanor. After the amendment, the threat must be such as to be deemed as posing a serious and substantial risk to the public before criminal charges can be filed.

Amends: 76-5-107.3

CAMPUS SAFETY AMENDMENTS

HB 28

Rep. Don Ipson

This bill modifies the part of the code that pertains to offenses, including trespass, on the campus of both public and private institutions of higher education. It repeals several inconsistent sections and makes it a class B misdemeanor to trespass on “property that owned, operated, or controlled by an institution of higher education.” The bill also specifies that the *mere carrying or possession of a firearm* on the campus of a state institution of higher education, does not warrant an order to leave if the person carrying or possessing the firearm is otherwise complying with all state laws regulating the possession and use of a firearm.

Amends: 76-8-701, 76-8-702, 76-8-705, 76-8-709 and 76-8-717

Repeals &**Reenacts:** 76-8-703**Repeals:** 76-8-704, 76-8-708, 76-8-710, 76-8-711, 76-8-712, 76-8-713 and 76-8-718

ENTICING A MINOR

HB 31**Rep. Curt Webb**

Amends definition of “text messaging” to include “any electronic communication” from a telephone, computer or other electronic communication device to another such device to entice a minor to engage in any sexual activity which is a violation of state criminal law.

Amends the attempt language to clarify that the prohibited activity is an attempt to solicit, not an attempt to use an electronic device.

Removes the requirement that the state prove a defendant acted “with the intent to commit” any specific sexual activity which is a violation of state criminal law. The bill clarifies that the crime is committed when the enticing is done, regardless of whether the defendant actually intended to follow through with the activity later.

Amends: 76-4-401

MOTORCYCLE ENDORSEMENT

HB 32**Rep. Val Peterson**

Exempts a person who applies for a motorcycle endorsement from the requirement to pass the knowledge test if the person is a resident of Utah, and is ordered to active duty outside of Utah in any of the armed forces of the United States (or is an immediate family member of a person so ordered), has a digitized driver licence photo on file with the division, provides proof to the division of successful completion of a certified Motorcycle Safety Foundation rider training course; and provides the usual documentary evidence and information for a driver license. Grants the division rule-making authority to implement this amendment.

Amends: 53-3-205

EXPUNGEMENT PROCESS AMENDMENTS

HB 33**Rep. Eric Hutchings**

During the 2012 legislative session Senator Howard Stephenson proposed some radical changes to the expungement statute to allow drug offenders to expunge multiple “drug related crimes” (no clear definition). We had some productive discussions with Senator Stephenson and he agreed to set up a “Drug Related Expungement Committee”. This bill was the final product of that committee.

The first new concept introduced by this bill was to give the Board of Pardons and Paroles authority to issue orders of expungement. Those orders have the same effect as court ordered expungement. Previously pardons issued by the Board of Pardons have been a basis for a Certificate of Eligibility but the person still had to go through the entire court proceeding to get an expungement order. This turned out to be a practical nightmare for the individual so the extra step is eliminated by this bill.

The next step was to allow the expungement of “drug possession offenses” in addition to the current quota of other offenses which may be expunged. The definition of “drug possession offense” is contained in 77-40-102(7) and includes possession offenses from 58-37-8(2) except for the most serious possession cases i.e. 100 pounds of marijuana, possession in a correctional facility and driving with an illegal controlled substance in the body negligently causing serious bodily injury or death. Under amendments to 77-40-105(5) *et seq* the applicant may be eligible to expunge 3 or more felony possession offenses, each of which is contained in a separate criminal episode. The total number of possession convictions which may be expunge may not exceed 5, each of which is contained in a separate criminal episode. If the single criminal episode contains both a possession charge and a non-drug possession charge, the episode is counted as non-drug possession if the non-drug possession is a felony or class A or has a longer waiting period than the possession charge. If you have a serious issue trying to decipher the new law this can be explained either by BCI or by Lana Taylor in the Attorney General’s Office.

When a drug possession charge is sought to be expunged, the court must find by clear and convincing evidence, both the current standards and a new requirement in Subsection 77-40-107(8)(c) “The petitioner is not illegally using controlled substances and is successfully managing any substance addiction.....”

Amends: 77-27-1, 77-40-102, 77-40-103, 77-40-105, 77-40-106, 77-40-107, 77-40-108, 77-40-109 and 77-40-110
Enacts: 77-27-5.1

STORM WATER CAPTURE AMENDMENTS

HB 36

Rep. Jim Nielson

Last year the Legislature provided for an exemption from the State Engineer’s water regulating authority for those capturing storm water on their property. This bill clarifies that exemption and allows the capture of precipitation if:

- the capture and method of capture is consistent with local laws;
- doesn’t interfere with another’s water right;
- will end up in the ground;
- will not be used for domestic purposes;
- the storage capacity does not exceed 2,500 gallons; and
- a permit has been issued.

A permit is not needed if there are no more than 2 storage containers (which must be covered), neither of which holds more than 100 gallons.

Amends: 73-2-25 and 73-3-1.5

CANDIDATE AMENDMENTS

HB 39

Rep. Kraig Powell

This bill provides:

- The party central committee may certify another candidate for a candidate who dies, resigns or is disqualified after the close of the period for filing a declaration of candidacy until the day before the certification of the lieutenant governor for either the primary or general election. Any candidate certified after the above deadline may not appear on the ballot.
- An opportunity for a candidate who is located outside the state during the filing period due to employment with the state or United States, or who is on active military duty, National Guard on activated status or with the Merchant Marine, Public Health Service or National Oceanic and Atmospheric Administration to have a designated agent file the declaration of candidacy on his behalf. However the agent may not sign the person's name to the declaration of candidacy.
- A form for filing as a write-in candidate.
- An increase in filing fees for a declaration of candidacy.

Amends: 20A-1-501, 20A-6-302, 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-403, 20A-9-502, 20A-9-503, 20A-9-601, 20A-9-602, 20A-9-803, 20A-11-206, 20A-11-305 and 20A-11-1305

ELECTION POLLING

HB 44

Rep. Greg Hughes

Defines "poll" as a survey of a person's opinion regarding a candidate or ballot proposition. The bill provides that a person conducting a poll must, prior to the end of the survey, disclose to the person being surveyed the identity of the person paying for the poll. Failure to do so could result in a \$100 fine unless the person being surveyed ends the survey before it is completed.

Amends: 20A-11-101

Enacts: 20A-11-905

DATING VIOLENCE PROTECTIVE ORDER ACT

HB 50

Rep. Jennifer Seelig

Provides for a Protective Order similar to a Cohabitant Protective Order when there is a "dating relationship," defined as people who are 18 years or older in a "social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship includes sexual intimacy."

Procedure is similar to Cohabitant Protective Orders, however, a Dating Violence Protective Order will automatically expire in 180 days.

Neither a Dating Violence Protective Order or a conviction for a violation of a Dating Violence Protective Order will invoke federal firearms prohibitions because the language of this bill does not meet the federal definition of an “intimate partner.”

Provides that a violation of a Dating Violence Protective Order will be a Class B misdemeanor under new 78B-7-407. There is mandatory arrest for violation of these Dating Violence Protective Orders, just like the mandatory arrest for violation of Cohabitant Abuse Protective Orders.

Enacts: 78B-7-401, 78B-7-402, 78B-7-403, 78B-7-404, 78B-7-405, 78B-7-406 and 78B-7-407

CONTROLLED SUBSTANCE REVISIONS

HB 52

Rep. Paul Ray

Lawmakers continue to strive to keep up with the chemical alterations made by spice and bath salt makers in an effort to keep our statutory definition of a ‘listed substance’ as up-to-date as possible. This bill expands the definition of a “Listed Substance” to include many new chemical variations such as AM-2233, AKB48, Diisopropyltryptamine, Fluoroisocathinone, and other big words too difficult to spell here.

Amends: 58-37-4.2

ELECTION LAW AMENDMENTS

HB 53

Rep. Kraig Powell

This bill makes several changes. First it makes a Western States Presidential Primary contingent upon an appropriation by the legislature. It adds the ability to call a local special election for the election of officers for a new city or the creation of a new county or a commission to study changing county government, a vote on municipal cable television or telecommunication services, or a vote on special property tax relating to school property.

The bill provides that if the election official cannot match the signature on an absentee ballot to the signature on file, they may mail a new ballot to the voter if the deadline has not passed and then invalidate the initial absentee ballot. An absentee ballot is not valid if submitted by mail unless it is postmarked before election day and received before noon on the day of the canvass. If the municipality or county decides to conduct an election entirely by absentee ballot it is not required to offer early voting.

It also adds a requirement that if the Judicial Performance Evaluation Commission recommends a judge be retained or declines to make a recommendation, the number of votes for and against the recommendation must be included in the voter information pamphlet.

Amends: 20A-1-102, 20A-1-203, 20A-1-201.5, 20A-3-302, 20A-3-306, 20A-3-605, 20A-6-401.1, 20A-7-702, 20A-11-104 and 20A-11-402

PROPERTY TAX AND APPRAISER AMENDMENTS

HB 54

Rep. Gage Froerer

- This bill addresses three aspects related to board of equalization and Commission hearings.
1. It establishes qualifications for hearing officers for board of equalization hearings with the standards to be established by the Commission. Hearing officers must be a licensed appraiser or have competency in real estate, finance, economics, public administration or law and pass a course developed by the Commission. In no event may they be an employee of the assessor's office. Counties will want to monitor the Commission's development of standards and the course related to these new requirements.
 2. It identifies specific information that must be considered by a board of equalization and the Commission. The information to be considered includes: (I) a review of the assessor's or owner's information of fair market value for accuracy, reliability and comparability; (ii) sales price for property under contract on the lien date, but then sold; and (iii) the sales offering price as of the lien date. None of this is new and has no legal impact. To the extent such evidence was relevant to fair market value, it should have been considered prior to HB. 54. However, post HB. 54, hearing officers should be careful to state they "considered such evidence, but gave it the weight it deserved." Such weight may be very little, if any. This is particularly true in the case of (iii).
 3. It allows non appraiser licensed representatives to offer "price estimates" and "evidence" in tax hearings. In contrast, licensed appraisers cannot give "a price estimate," but must give an "opinion of value" that is USPAP compliant. This will have two impacts. First, the playing field is expressly made unequal between licensed and non-licensed witnesses. Assessors and their staff, who must be licensed, may be subject to USPAP noncompliance threats if they offer an opinion of value without a full appraisal while the taxpayers representatives can offer a "price estimate" with no licensing consequence. Second, the fact that non-licensed representatives can offer "price estimates" and "evidence" may result in increased appeals. Such appeals may further be escalated because non-licensed representatives will be able to provide representation on a contingency basis. Licensed appraisers cannot offer an opinion of value based on a contingency.

Amends: 59-2-1001, 59-2-1004, 59-2-1006, 61-2g-301, 61-2g-406 and 61-2g-407

Enacts: 59-2-1017

PROTECTION OF ATHLETES WITH HEAD INJURIES ACT AMENDMENTS

HB 58

Rep. Paul Ray

Last year a bill required governmental entities to take a more active role in head injuries in our recreation programs. This amendment exempts governmental involvement when others, organizations or individuals, use government owned parks or other facilities outside of government sponsored programs, regardless of whether a fee is assessed.

Amends: 26-53-102

UTILITY FACILITY SIGHTINGS

[HB 60](#)

Rep. Douglas Sagers

Amends provisions regarding the Utility Facility Review Board, which resolves disputes between local governments and public utilities, by revising administrative procedure, establishing a presumption regarding a utilities compliance with local government permit requirements, and establishing a presumption regarding timing imposed by land use ordinances.

Amends: 54-14-301, 54-14-304, 54-14-305 and 54-18-305

FELON'S RIGHT TO HOLD OFFICE

[HB 64](#)

Rep. Carol Spackman Moss

A person who is convicted of a grievous child sexual offense, defined in 76-1-601, is not allowed to hold an office on the state or local board of education.

Amends: 20A-2-101.5

POLITICAL SUBDIVISION AMENDMENTS

[HB 66](#)

Rep. Curt Webb

Amends provisions regarding the establishment of a local districts, special service districts, and special assessment areas regarding notices, deadline, and protests. The protest period is made uniform at 60 days after a public hearing and protest thresholds are set at 25% of total private land area and 15% of value of private real property or 25% of registered voters. Permits the collection of special assessment area fees through the property tax system.

Amends: 11-42-202, 11-42-203, 11-42-204, 11-42-206, 11-42-401, 17B-1-211, 17B-1-213, 17B-1-214, 17B-1-215, 17D-1-102, 17D-1-205, 17D-1-206 and 59-2-1317

PROPERTY TAXATION REVISIONS

[HB 67](#)

Rep. Gage Froerer

This statute does five things.

- It allows personal property owned by a landlord, but used by the tenant, to receive the residential 45% exemption.
- It increases the personal property *de minimis* exemption in Section 59-2-1115 from \$3,500 to \$10,000. This may be unconstitutional.
- It makes it clear that the *de minimis* measurement is based on taxable value. For example, landlord furnishings used by the tenant may be worth \$15,000, but because of the primary residential exemption, their taxable value is \$8,250 and below the \$10,000 threshold.
- It allows the Assessor to require first time *de minimis* exemption requests to fill out an

application for exemption. For all subsequent years, the Assessor can only ask for a signed statement under penalty of perjury that the taxpayer qualifies for the de minimis exemption.

However, nothing in this amendment prohibits the Assessor from performing an audit and subpoenaing any information in the course of an audit.

- It clarifies that the indigent deferral only applies to real property.

Amends: 59-2-102, 59-2-103.5, 59-2-1105, 59-2-1108, 59-2-1109 and 59-2-1115

Effective date: January 1, 2014.

EXPUNGEMENT OF RECORDS

HB 69

Rep. Richard Greenwood

This bill clarifies that a government agency or official may divulge information or records which have been expunged to those entities listed in Subsection 77-40-109(2), including the Board of Pardons, POST, DOPL, the State Office of Education and federal authorities.

Amends: 77-40-108

SAFE DRINKING WATER DISCLOSURE ACT

HB 72

Rep. Roger Barrus

For those of you who have your water supply fluoridated, the supplier and the supply have to be certified and meet NSF/ANSI Standard 60. It also requires that the water company keep records of what is added to the drinking water. If there are problems, the Health Department can take action.

Amends: 19-4-111, 19-4-111.1 and 19-4-111.2

WATER EASEMENT AMENDMENTS

HB 73

Rep. John Mathis

This bill establishes the process, which includes a sizeable notice requirement, for the holder of a prescriptive easement for the conveyance of water, to abandon that prescriptive easement.

Enacts: 57-13a-104

PROPERTY TAX MODIFICATIONS

HB 74

Rep. John Mathis

Surface land owners in various areas of the state were being assessed a rollback tax when the

split estate mineral right holder unilaterally determined to change the use of the land through mineral exploration and extraction. This bill addresses the concerns of involuntary land use changes removing the Farmland Assessment Act rollback tax requirement under certain conditions related to a mineral rights owner exercising the right to extract minerals.

Amends: 59-2-102, 59-2-503 and 59-2-506

CONCEALED WEAPON CARRY AMENDMENTS

HB 76

Rep. John Mathis

**This bill was vetoed by the Governor
and of this writing no decision has been made regarding an override session.**

After much haggling and debate the bill passed with the key provision being an amendment to 76-10-523(3) stating “the provisions of subsection 76-10-504(1) does [sic] not apply to a person 21 years or older who may lawfully possess a firearm, as long as the firearm is not loaded.” This reference is of course to the prohibition on carrying a concealed weapon. The “unloaded” provision is to get around the multitude of problems caused by loaded firearms in a vehicle, particularly hunting weapons which are not designed to be safely transported in a vehicle with a round in the chamber. This bill began with a desire of the sponsor to allow a person herding cows with a raincoat over a holstered weapon to do so legally. It devolved from there to a cause celebre.

Amends: 76-10-505, 76-10-505.5 and 76-10-523

MOTOR VEHICLE REGISTRATION AND INSURANCE

HB 79

Rep. Stephen Handy

Provides that an evidence-of-insurance card issued by an insurance company on or after July 1, 2014, may not display the owner’s or operator’s address on the card. Provides that a new registration card issued by the commission on or after November 1, 2013, may not display the address of the owner or the lessee. Exception: registration cards for apportioned vehicles shall display the address of the owner or lessee (there is no apportioned-vehicles exception for the evidence-of-insurance cards provision of this bill). This bill takes effect July 1, 2013.

Amends: 31A-22-302, 41-1a-213, 41-1a-218 and 41-12a-303.2

ELECTIONS AND EARLY VOTING DURING A DECLARED EMERGENCY

HB 82

Rep. Rebecca Chavez-Houck

A declared emergency is defined as an emergency declared by the President, Governor or chief executive officer of a political subdivision which affects an election in the state, including

election day voting, early voting, transmittal or counting of absentee or military-overseas balloting, or canvassing of election returns. If such emergency is declared the lieutenant governor may designate a method, time or location different from that which is normally determined by statute. The lieutenant governor must notify the public by posting on the voter website, notifying the election officer and a paper of general circulation.

Amends: 20A-3-601, 20A-3-602, 20A-3-603, 20A-3-604, 20A-7-801 and 67-1a-2

Enacts: 20A-1-308

SPEED LIMIT AMENDMENTS

[HB 83](#)

Rep. James Dunnigan

This bill expands the portion of I-15 where the posted speed limit may exceed 75 mph, and adds portions of I-80 and I-84 where the posted speed limit may exceed 75 mph. For I-15 the expanded portions are between mileposts 244 and 24 (before this bill it was between mileposts 222 and 64) and between milepost 366 and the Utah-Idaho state line. For I-80 the added portion is between milepost 99 and the Utah-Nevada state line. For I-84 the added portion is between the Tremonton Interchange and the Utah-Idaho state line. Speed limit changes under this bill must be based on a highway traffic engineering and safety study by DOT, and DOT shall study any implementation(s) of them for their impact.

Amends: 41-6a-602

VOTING RECOUNT AMENDMENTS

[HB 85](#)

Rep. Craig Hall

The bill alters the formula for determining when a recount may be made. For a race involving candidates where the total number of votes exceeds 400, the difference between the votes cast for the candidates must be equal to or less than .25% of the total number of votes cast for all candidates in the race. If the votes cast total 400 or less the difference must be only one vote.

The request for recount must be filed within three days after the canvass in a municipal primary election. Otherwise it must be filed within seven days after the canvass.

With respect to a ballot or bond proposition, the same margin is required depending on the total number of votes cast; however, it requires a request by ten voters to recount.

Amends: 20A-4-401

PROPERTY TAX RATE CERTIFICATION DATE

[HB 86](#)

Rep. Merrill Nelson

This bill gives the governing bodies of taxing entities greater flexibility in adopting a proposed tax rate or final rate if they have not received their certified tax rate at least seven days prior to June 22nd.

Amends: 59-2-912

Effective date: Retroactive to January 1, 2013

ATTEMPTED AGGRAVATED MURDER AMENDMENTS

[HB 87](#)

Rep. Lee Perry

Addressing an especially vicious attack and attempted aggravated murder which occurred in Utah County, this bill amends the "Attempt Classification" statute at 76-4-102:

"(ii) except as provided in Subsection (2), an attempt to commit aggravated murder, Section 76-5-202, which results in serious bodily injury, is punishable by imprisonment for an indeterminate term of not fewer than 15 years and which may be for life;"

Subsection (2) then allows a judge to impose a lesser term of either 10 years to life, or of 6 years to life, if the judge finds it is in the interests of justice, and makes findings on the record for such a departure.

Amends: 76-4-102

LAND USE AMENDMENTS

[HB 88](#)

Rep. Melvin Brown

This bill, in its first version, sought to create an opportunity for individual land owners affected by a proposed re-zoning or zoning change to opt out of that change. When that proved unpopular, the sponsor modified it to make notice a courtesy and to make an objection to the change informational, not controlling.

The bill requires a municipality or county to give a "courtesy" notice of the intent to amend zoning to an owner of private real property that is located within a proposed zoning map or map amendment. It permits an owner of private real property located within a proposed zoning change area to file a written objection to the change and requires the planning commission to consider the written objections, and forward them to the legislative body. Once received, the legislative body is not bound to take or refrain from any action.

There is a drafting mistake at line 126 and line 142 which makes the bill confusing. The mistake creates a requirement that when a county intends to hold a public hearing on a zoning

change, "the municipality" must provide notice of the hearing and file the objections to the amendment with the county. This was obviously not the intent of the drafting attorney or the sponsor but it is the language of the bill. Anyone facing a notice requirement will need to determine how to address this inconsistency until next year when the language will be changed to conform to what was intended.

Amends: 10-9a-205, 10-9a-502, 17-27a-205 and 17-27a-502

JUDICIAL REVIEW OF PEACE OFFICER STANDARDS AND TRAINING ACTIONS

HB 89

Rep. Merrill Nelson

This bill provides that a peace officer whose certification to serve as a peace officer has been suspended or revoked by the POST Council may, after exhaustion of administrative remedies, appeal that suspension or revocation to the state courts as provided for in Title 63G, Chapter 4, Part 4, Judicial Review.

Amends: 56-6-211

FACTUAL INNOCENCE ASSISTANCE AMENDMENTS

HB 92

Rep. Gage Froerer

This bill provides that if a person who has been found to have been wrongfully convicted under the factual innocence statute dies, the financial assistance payment provided for by the statute shall be paid to the person's surviving spouse. The spouse must have been married to the wrongfully convicted person at the time the person was convicted and must have remained continuously married to the person until the person's death. If payments have already commenced to the wrongfully convicted person at the time of the person's death, payments to the spouse will continue on the same schedule. Payments cease upon the death of the spouse.

If the spouse causes the death of the wrongfully convicted person by homicide, except automobile homicide, the survivor forfeits all right to payments.

Amends: 78B-9-402

TRAFFIC VIOLATIONS AMENDMENTS

HB 93

Rep. Jeremy Peterson

This bill provides that where a person receives a citation for a moving traffic violation that resulted in a collision where any person involved in the collision sustained serious bodily injury or death as a proximate result of the collision, a court may not accept a plea of guilty or no contest unless the prosecutor agrees to the plea in open court, in writing, or by another means of

communication which the courts finds adequate to record the prosecutor's agreement. A peace officer who issues a citation in such circumstances shall record on the citation that serious bodily injury or death resulted.

Amends: 41-6a-202

AMORTIZATION RATE CONTRIBUTION FOR REEMPLOYED RETIREES REVISIONS

HB 95

Rep. Douglas Sagers

Clarifies that a governmental entity which employs a retiree is only required to make an amortization rate contribution if the re-employed retiree has completed a one-year separation following retirement and chooses to continue to receive a retirement allowance.

Amends: 49-11-505

INTERNET PRIVACY AMENDMENTS

HB 100

Rep. Stewart Barlow

- Establishes provisions in the labor code, governing both public and private employers, regarding employee use of internet and other electronic media;
- preserves the privacy of an employee's personal internet accounts except:
 - on a device or account owned or provided by the employer;
 - regarding discipline for revealing confidential information;
 - while conducting an investigation related to laws and regulations or employee misconduct; or
 - for establishing restrictions on employee's access to certain websites;
- there is no prohibition on an employer's compliance with applicable state or federal laws or regulations or on an employer's access to materials in the public domain;
- there is no employer duty to search or monitor electronic communications nor is there a breach of duty to fail to do so;
- establishes a private cause of action; and
- establishes similar provisions regarding higher education.

Enacts: 34-48-101, 34-48-102, 34-48-201, 34-48-202, 34-48-203, 34-48-301, 53B-24-101, 53B-24-102, 53B-24-201, 53B-24-202, 53B-24-203 and 53B-24-301

ARSON PENALTY AMENDMENTS

HB 102

Rep. Larry Wiley

The aim of this bill is to address a real fire-bug in the area who likes to start little brush fires,

and then watch them get put out. The new language sets up a penalty structure similar to theft, with stepped up penalties for repeat fire starters such that if the damage caused amounts to:

5,000 or more = 2nd degree, OR

1500 to 5,000, with a prior conviction within 10 years = 2nd Degree

1500 to 5,000 = 3rd degree, OR

500 to 1500, with a prior conviction within 10 years, = 3rd degree

500 to 1500 = Class A, OR

less than 500, with a prior conviction within 10 years, = Class A

less than 500, still a Class B.

Amends: 76-6-102

WIRELESS TELEPHONE USE RESTRICTIONS

HB 103

Rep. Lee Perry

Provides that a person under 18 years of age, whether a resident or non-resident of Utah, may not use a wireless telephone to communicate with another person while operating a motor vehicle upon a highway of this state. Maximum fine for violation is \$25. A violation is not reportable to the division and the division may not assess points against the a violator's driving record. Affirmative defenses are: the person under 18 years of age was using a wireless telephone during a medical emergency, when reporting a safety hazard or requesting assistance to a safety hazard, when reporting criminal activity or requesting assistance relating to criminal activity, or when communicating with a parent or guardian.

Enacts: 41-8-4

WIRELESS CALL LOCATION INFORMATION

HB 104

Rep. Mark Wheatley

This bill provides that a mobile telecommunications service provider shall, upon the request of a law enforcement agency or of a public safety communications center, provide call location information regarding a telecommunication device user whom a law enforcement agency has reason to believe is in need of services if the agency or center determines the location information is necessary in order to respond to: (a) a call for emergency response services; or (b) an emergency situation that involves the imminent risk of death or serious bodily injury as defined in Section 76-1-601.

The Criminal Investigations and Technical Services Division of the Department of Public Safety is directed by the bill to obtain contact information from all mobile telecommunication service providers that provide services in Utah in order to facilitate communicating location requests. The division shall provide that contact information to all public safety communications centers in the state and shall provide updates to the contact information.

Enacts: 53-10-104.5

SERIOUS YOUTH OFFENDER AMENDMENTS

HB 105

Rep. Lowry Snow

In the 1995 General Session we were actively involved in the drafting and passage of Senate Bill 111, Serious Youth Offender. This was partly in anticipation of an adverse decision in *State v. Mohi*, 901 P.2d 991 (1995). That decision invalidated the existing direct file statute as giving too much discretion to prosecutors by allowing them to decide whether the defendant should be tried in juvenile or adult court. The bill was also in conformity with a nationwide trend to combat gang violence by trying juveniles as adults. That legislation introduced a new procedure in which certain violent crimes would be charged by information in the juvenile court and the preliminary hearing would also be held in the juvenile court. After a finding of probable cause the defendant is to be bound over to the district court unless certain factors are found. At that time several of us put together the general framework and then consulted with the Board of Juvenile Court Judges regarding the factors which must be found in order to retain jurisdiction in the juvenile court.

The juvenile court judges returned with a list of factors which make up the current law. This was surprising to many of us as it seemed that the standard would be very difficult indeed to meet. Those retention factors have been under review from time to time by the Sentencing Commission ever since.

Problems of dealing with minor offenders in the adult system have increasingly brought about a concern as to whether we should do away with serious youth offender. Several studies have demonstrated that the lack of specialized services for juveniles in the adult system appears to be having a counter productive effect. A large number of states have addressed this problem with “blended sentencing” options. This year a Sentencing Commission Sub-Committee was formed to look into the issues of minors in the adult system. The first step recommended by the committee was to deal with the evolving inflexibility of the serious youth offender statute. After considerable discussion, a decision was made to modify the retention factors rather than to repeal serious youth offender. The difficulty was to structure the process so that the juvenile court judge has more discretion without turning the procedure into a certification hearing.

In the bill, Section 78a-6-702 is modified to provide that in order to retain the juvenile after the finding of probable cause, the court must find that it would be contrary to the best interest of the minor and the public to bind over the defendant to the jurisdiction of district court. In making that determination the judge shall consider only whether the minor’s been previously adjudicated for a dangerous weapon offense, whether the juvenile had greater or lesser culpability than co-defendants, the extent to which the minor’s role was committed in a violent aggressive or pre-meditated manner, the minor’s prior adjudications and whether public safety is better served by adjudicating the minor in the juvenile court or in the district court. The burden of persuasion is clear and convincing evidence and the burden of going forward is on the defendant.

There was considerable concern by the county attorneys as to whether the hearings would be kept open to the public. As the public heat for trying a particularly notorious defendant as an adult is now shifted somewhat from the county attorney to the juvenile court judge, the concern is to make sure that the process is transparent. As the juvenile rules of procedure regarding SYO would allow for closing the courtroom to protect a fragile witness or to allow for a reasonable exclusionary rule

regarding witnesses, we will continue to be on the lookout for any cases in which the public may be excluded inappropriately. That rule may be addressed in the future if necessary.

Amends: 78A-6-702

METAL THEFT AMENDMENTS

HB 108

Rep. Jack Draxler

This legislation is fairly large, affecting much of the code as it relates to second-hand metal dealer requirements and enforcement. The bill renumbers much of the code as well, so if you regularly prosecute or enforce in this area (formerly in the 76-10-900 range) be aware that renumbering puts regulation of metal dealers at NEW 76-6-1400 *et. seq.*, with enforcement provisions at NEW 76-10-3000 *et. seq.*

Some of the major changes included with these revisions:

76-6-1403 (*The information required to be obtained by dealers is greater*):

(b) The dealer shall obtain regarding each transaction with repeat sellers:

(i) a photograph of the seller; and

(ii) a signature from the seller.

76-6-1407 (*Increases penalty for repeat offenses by dealers*):

(1) (a) Any dealer who violates any of the provisions of this part is guilty of a class C misdemeanor.

(b) A violation of Subsection (1)(a) that occurs after the defendant has been convicted of a violation of Subsection (1)(a) is a class A misdemeanor

76-6-1408 (*Increases penalty for repeat false information from sellers*):

(1) Any seller who, in providing any information as required by this part in selling, offering, or attempting to sell regulated metal willfully makes a false statement or provides any untrue information, is guilty of a class B misdemeanor.

(2) A violation of Subsection (1) that occurs after the defendant has been convicted of a violation of Subsection (1) is a class A misdemeanor.

Again, this was a large bill so if you work in this area you'll want to read through it all.

Amends: 10-18-103, 13-32a-102, 13-44-301, 76-6-402.5, 76-6-408, 76-6-412.5 and 78B-8-503

Renumbers

& Amends: 76-6-1401, 76-6-1402, 76-6-1403, 76-6-1404, 76-6-1405, 76-6-1406, 76-6-1407, 76-6-1408, 76-6-1409, 76-10-3001, 76-10-3002, 76-10-3003, 76-10-3004, 76-10-3005, 76-10-3101, 76-10-3102, 76-10-3103, 76-10-3104, 76-10-3105, 76-10-3106, 76-10-3107, 76-10-3108, 76-10-3109, 76-10-3112, 76-10-3113, 76-10-3114, 76-10-3115, 76-10-3116, 76-10-3117 and 76-10-3118

ASSESSMENT OF PROPERTY IF THREATENED OR ENDANGERED SPECIES IS PRESENT

HB 112

Rep. Michael Noel

Pay attention to this bill if yellow-crested Cockatoos or northern spotted owls frequent your property. In assessing the fair market value of property, a county assessor must consider whether a threatened or endangered species is present on any portion of the property, including any impacts the presence of the threatened or endangered species has on (a) the functionality of the property; (b) the ability to use the property; and © property rights. Of course the assessor can look at any other factor impacting fair market value.

Enacts: 59-2-301.5

Effective date: January 1, 2014

COUNTY GOVERNING BODY AUTHORITY

HB 113

Rep. Stephen Handy

This bill creates an official recognition by the State that the counties are designated as a cooperating agency for the purpose of negotiating with Federal land management agencies. Counties have been recognized as such for some time, but the official designation is intended to lend more weight to a county governing body's decisions and designations in the areas defined in the bill.

The bill defines relevant terms and then authorizes a county governing body to represent the county as a cooperating agency for specified federal land development and management actions. It justifies this designation by identifying the governing body as a body that has special expertise for certain federal land development and management actions. It authorizes a county to participate in certain coordinating efforts with federal agencies.

Enacts: 17-53-318

TOWING AMENDMENTS

HB 115

Rep. Keven Stratton

This bill provides that a tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash, credit card, or debit card for removal, impoundment and other services. Tow truck operators and truck motor carriers, on initial contact with the owner whose vehicle, vessel, or outboard motor was removed, shall provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by this bill, which contains maximum fees for towing and impound services. Provides that counties and municipalities may enact and enforce ordinances, regulations and rules for tow truck operators and tow truck motor carriers that do not conflict with this bill. Also provides that a vehicle immobilizer may not charge a fee for the removal of a vehicle immobilization device and other services rendered in connection thereof above the

following fees already specified in the traffic code: \$75 for the first 24 hours period a vehicle is immobilized; \$25 for each additional 24-hour period (total charges per instance of immobilization may not exceed \$150). A vehicle immobilizer shall accept payment by cash, credit card, or debit card for removal, impoundment and other services rendered in connection thereof.

Amends: 41-6a-1406, 41-6a-1409, 72-9-603 and 72-9-604

REGULATION OF TATTOO INDUSTRY

HB 117

Rep. Jon Stanard

Provides that consent of a minor's parent or legal guardian to receive a body piercing or tattoo shall include a parent or guardian's written and signed permission in addition to the parent or guardian's presence at the place of business. Adds another requirement for defense to prosecution for unlawful body piercing and unlawful tattooing: the person performing the services shall review, photocopy, and retain the photocopy of an apparently valid driver license or other government-issued picture identification for the minor that expressly purports that the minor is 18 years of age or older before the person performs the body piercing or tattooing.

Amends: 76-10-2201

FIREARM SAFE HARBOR

HB 121

Rep. Dixon Pitcher

A Sesame Street tune comes to mind. *"One of these gun bills is doing its own thing."*

While the majority of gun bills passed this year were aimed at preventing law enforcement from getting their hands on your guns, this bill goes the other way, and is intended as a means of preventing some violent domestic violence situations. It enacts the "Firearms Safe Harbor" Chapter at 53-5c-101 *et. seq.* Definitions are contained in section 102, and include the common definitions for firearms and cohabitants. Importantly, an "owner cohabitant" is defined as a cohabitant who "owns, in whole or in part, a firearm."

Section 201 then spells out Voluntary Commitment of a Firearm by an Owner Cohabitant:

- (1) (a) An owner cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate threat to:
 - (I) himself or herself;
 - (ii) the owner cohabitant; or
 - (iii) any other person.
 - (b) The statute makes very clear that an agency may obtain a firearm under this section only if it is voluntarily presented to the agency, at the agency's office.
- (2) Unless the firearm is illegally possessed, the agency must:
 - Record the name, address, and contact information for the cohabitant owner

- Record the serial number
- Record the date it was brought in
- Obtain a signed document from the cohabitant owner that they have ownership interest
- Hold the firearm for 60 days in safe custody, OR
- Return it earlier to the cohabitant owner if requested earlier, OR
- Return it to another owner if requested, and if permissible under section 202.

(3) If 60 days expires, the cohabitant owner can request another 60 days.

(4) IMPORTANT. “A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.”

It's Utah's own *Don't Ask, Don't Tell* policy. We'll see it again.

(5) All records created by operation of somebody bringing in their gun must be destroyed within five days of the return of the gun, or of converting the gun to public interest use, or destroying it.

Section 202 then spells out disposition of the guns.

(1) If a firearm is brought in and a check shows that it is an illegal firearm, the owner shall be notified of that fact, and the agency shall “confiscate the firearm and dispose of it as the head of the law enforcement agency determines.”

(2) If the firearm is not illegal, but 60 days has expired with no further request to hold the gun, the agency shall make a “reasonable attempt” to locate the cohabitant firearm owner to return it to her. But, if unsuccessful, the agency may then:

- a. Appropriate the gun to public interest use, OR
- b. Sell the firearm and appropriate the funds to public interest use, OR
- c. Destroy it, if unfit for resale.

IMPORTANT. An agency may not do a, b, or c, “earlier than one year after the day on which the owner cohabitant initially voluntarily commits the firearm.”

(3) Public Interest use of the gun or funds is spelled out. It requires approval from your local legislative body (i.e. city council) to convert the property to public interest.

Finally,

(4) (a) If a person other than the original cohabitant owner comes in asking for his gun back, the person has two ways to do it... by operation of that section, or a court hearing. Under this section

(b): “the law enforcement agency shall return a firearm to a person other than an owner cohabitant who claims ownership of the firearm if:

(I) the 60-day period described in Section 53-5c-201 has expired;

(ii) the person provides identification; and

(iii) the person signs a document attesting that the person has an ownership interest in the firearm.

(c) Alternatively, the owner may petition a court for return of the gun. This requires “sufficient notice” to the prosecutor, and then a court determination that the owner may

possess it, or alternatively it can be ordered converted to public interest use, or destroyed.

Enacts: 53-5c-101, 53-5c-102, 53-5c-201 and 53-5c-202

INTERSTATE LOCAL EMERGENCY RESPONSE ACT

HB 125

Rep. Curtis Oda

- Permits the governor to enter into an emergency response agreement with a neighboring state, which has similar legislative authority;
- provides procedures and requirements for sharing emergency services between the local governments of the two states;
- establishes circumstances and considerations justifying such agreements;
- provides for a reciprocal governmental immunity; and
- provides for reciprocal workers comp or death benefits provisions.

Enacts: 63K-6-101, 63K-6-102, 63K-6-201, 63K-6-202, 63K-6-301, 63K-6-302, 63K-6-303, 63K-6-401, 63K-6-402 and 63K-6-403

OFF-HIGHWAY VEHICLE USER FEE AMENDMENTS

HB 126

Rep. Spencer Cox

This bill provides that a person operating a nonresident off-highway vehicle is not required to obtain an off-highway vehicle user decal and pay the off-highway vehicle user fee if the nonresident off-highway vehicle is used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state. The Board of Parks and Recreation is given rule making authority to establish eligibility requirements for an off-highway vehicle manufacturer sponsored event.

Amends: 41-22-35

MOTOR VEHICLE EVENT DATA RECORDERS

HB 127

Rep. David Lifferth

This bill:

- Defines “event data” captured on a motor vehicle’s event data recorder (EDR) to include whether the air bag deployed, vehicle speed, steering performance, brake performance or use, or seat belt status or use. Audio and video data are specifically excluded from that definition.
- Defines “event data recorder” to have the same meaning as in 49 C.F.R. § 563.5, effective May 14, 2013.
- Defines “owners” as those with legal title, entitled to possess under a security agreement, or lessees under a lease originally intended to last for more than three months. The term “owners” excludes lienholders unless the lienholder gains possession through default.

- Provides that event data recorded on an EDR is private and the personal information of the vehicle's owner. That data can only be retrieved, obtained, or used by a person who is not the owner if:
 - the owner consents (if there is more than one owner, only one owner need consent);
 - if the data is retrieved by a dealer, manufacturer, or auto technician to diagnose, service, or repair the vehicle at the owner's request or the request of the owner's agent;
 - the data is subject to discovery in a criminal prosecution or pursuant to the rules of civil procedure in a claim arising out of an accident;
 - a court or administrative agency orders the data to be retrieved;
 - a peace officer retrieves the data pursuant to a court order as part of an investigation of a suspected violation of law that has caused, or contributed to the cause of, an accident resulting in damage to property or injury to a person; or
 - to facilitate or determine the need for emergency medical care for the driver or passenger of a motor vehicle involved in an accident or other emergency, including the retrieval of data from a company that provides subscription services to the owner of a motor vehicle for in-vehicle safety and security communications.

A person who has lawfully retrieved, obtained, or used data as provided above may not release it, except by:

- owner consent;
- pursuant to criminal discovery rules or civil procedure rules for a claim arising out of an accident;
- pursuant to court order as part of an investigation of a suspected violation of law that caused or contributed to, an accident resulting in damage of property or injury to person; or
- so long as the owner's identity is not disclosed, to a motor vehicle safety and medical research entity or data processor to advance motor vehicle safety, security, or traffic management.

Data on an EDR does not become the property of an insurer solely because the insurer succeeds in ownership of a vehicle as a result of an accident or of a subsequent purchaser of the vehicle solely because the subsequent purchaser becomes the new owner of the vehicle.

An insurer or lessor may not require an owner to consent to retrieval or use of the data on an EDR as a condition of providing a policy or lease.

Subscription service EDR capacity to record or transmit data shall be disclosed in the service agreement.

Notwithstanding the provisions of this bill, EDR data may be retrieved, obtained, and used by EDR subscription services providers for subscription services.

Enacts: 41-1a-1501, 41-1a-1502, 41-1a-1503 and 41-1a-1504

DRIVER LICENSE SUSPENSION MODIFICATIONS

HB 128

Rep. Douglas Sagers

Prior to this bill courts had discretion to shorten suspension periods for drivers who committed a DUI-related offense while under 21 years of age after a certain period of suspension time had elapsed. Under this bill courts still have this discretion but the bill makes the period of suspension time that must elapse consistent at six months, regardless whether the driver is over or under 19 years old when he or she commits the offense. These amendments apply to DUI and DUI metabolite (sections 41-6a-502 and -517, respectively) and, depending on which DUI-related offense is committed, the list of requirements a driver must complete before a court may shorten a suspension is in either section 41-6a-509(8) or section 41-6a-517(11).

This bill also amends the administrative suspension period for persons under 19 years old who drive in violation of sections 41-6a-502 (DUI) and 41-6a-517 (Driving With Any Measurable Controlled Substance in the Body) or who drive in violation of a section that triggers the civil driver license sanctions in sections 53-3-223 and 53-3-231. This makes sanctions for persons under age 19 consistent with those applicable to drivers who offend when they are 19 or 20 years old.

Revocations for refusal to submit to a chemical test by drivers under 21 years of age have not been changed by this bill.

Amends: 41-6a-509, 41-6a-517, 53-3-223 and 53-3-231

BOUNDARY ADJUSTMENT AMENDMENTS

HB 130

Rep. Melvin Brown

This bill is an attempt to make the process for adjusting a boundary line between properties easier for landowners who agree to the adjustment. It prescribes the method by which a property owner may execute a parcel boundary adjustment and execute a boundary line agreement. The bill arose because of objections to the cost imposed to record such an agreed upon adjustment.

The bill applies only in unincorporated areas and outside of platted subdivisions. There are some technical problems with the language which we will need to work to correct during the interim.

Amends: 10-9a-103 and 17-27a-103

Enacts: 10-9a-523, 10-9a-524, 17-27a-522 and 17-27a-523

PARENTAL NOTIFICATION RELATED TO STUDENT SAFETY

HB 134

Rep. Gage Froerer

Requires parental notification by schools of safety issues for their children, including: a child's threat to commit suicide; bullying, harassment or hazing of the child. Requires schools to keep records of that notice.

Amends: 53A-11a-605; 53A-11a-301, 53A-11a-302, 53A-13-302, 63G-2-202 and 63G-2-302

PARENT TIME RESTRICTIONS

HB 152

Rep. Craig Hall

Sets prohibitions for a person convicted of any sexual offense under Title 76, Chapter 5, Part 4 of the Utah Code where a child is conceived as a result of the crime. The person convicted may not petition for or be granted custody or parent time with that child.

EXCEPTIONS: Excluded are convictions for unlawful sexual activity with a minor or with a 16 or 17 year old, if the non-convicted parent of the child consents to a custody or parent time order AND the court finds that such an order is in the best interests of the child.

Enacts: 76-5-414

FEDERAL LAW ENFORCEMENT AMENDMENTS

HB 155

Rep. Michael Noel

This bill modifies the Public Safety Code and the Utah Criminal Code by limiting the authority of specified federal employees to exercise law enforcement authority within Utah. The majority of the bill consists of amendments to §53-13-106.5, State Limitations on Functions of Federal Law Enforcement Officers.

It starts out by defining, for purposes of this section, the “Exercise of Law Enforcement Authority” and making major amendments to the definition of “Federal Agency.”

(1) As used in this section:

(a) "Exercise law enforcement authority" means:

(I) to take any action on private land, state-owned land, or federally managed land, to investigate, stop, serve process, search, arrest, cite, book, or incarcerate a person for a violation of a federal, state, or local criminal justice system when the action is based on:

(A) a federal statute, regulation, or rule;

(B) a state or local statute, ordinance, regulation, or rule; or

(C) a state or local statute, ordinance, regulation, or rule that has been assimilated into federal law under a federal assimilation statute; or

(ii) to gain access to or use the correctional or communication facilities and equipment of any state or local law enforcement agency.

[(a)](b) "Federal agency" means a federal agency that manages federally managed land[.] or regulates activities on that land, including:

(I) the United States Bureau of Land Management;

(ii) the United States Forest Service;

(iii) the National Park Service;

(iv) the United States Fish and Wildlife Service;

(v) the United States Bureau of Reclamation;

(vi) the United States Environmental Protection Agency; and

(vii) the United States Army Corps of Engineers.

[(b)](c) "Federal employee" means an employee [of:] or other agent of a federal agency, but

does not include:

- (I) a special agent of the Federal Bureau of Investigation;
 - (ii) a special agent of the United States Secret Service;
 - (iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector or detention removal officer;
 - (iv) a special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
 - (v) a special agent of the United States Drug Enforcement Administration;
 - (vi) a United States marshal, deputy marshal, or special deputy United States marshal; or
 - (vii) a United States postal inspector of the United States Postal Inspection Service.
 - ~~[(I) the Bureau of Land Management;]~~
 - ~~[(ii) the United States Forest Service; or]~~
 - ~~[(iii) the National Park Service.]~~
- ~~[(e)]~~(d) "Federally managed land" means land managed by the following federal agencies:
- (I) the United States Bureau of Land Management;
 - (ii) the United States Forest Service; [and]
 - (iii) the National Park Service[-];
 - (iv) the United States Fish and Wildlife Service; and
 - (v) the United States Bureau of Reclamation.

Existing language in §53-13-106.5(3) already provided that, unless otherwise provided by Utah law, federal employees performing their duties in Utah may not exercise law enforcement authority solely because the land on which they exercise the authority is federally managed, and may exercise only law enforcement authority expressly granted by federal statute and consistent with the Constitution of the United States

Subsection (4)(a) is amended to provide that Utah does not recognize the authority of employees or agents of the United States Department of Interior to exercise law enforcement powers in any county when the exercise of the authority (I) occurs before the United States Secretary of the Interior has achieved the maximum feasible reliance upon the county's law enforcement officials in enforcing federal laws and regulations for the management, use, and protection of lands managed by the United States Bureau of Land Management, as required under 43 U.S.C. Sec. 1733(c)(2), or (ii) goes beyond those powers strictly necessary for the management, use, and protection of federally managed lands.

The above newly added language gains meaning because of pre-existing language in Subsection (4)(b) which provides that when the Secretary of Interior determines that state or local assistance is necessary in enforcing federal laws and regulations relating to federally managed lands or the resources on those lands, the secretary shall offer a contract to appropriate state or local law enforcement agencies of the state with the purpose of achieving maximum feasible reliance upon state or local law enforcement officials in enforcing the federal laws and regulations.

New subsection (6) provides:

(6) The authority of a United States Forest Service employee who is not a trained and certified law enforcement officer and the authority of any employee of the United States Bureau of Land Management to take action based on the Utah Code, Utah Administrative Rules, or county or

municipal ordinances, or a federal assimilation of any of these provisions, as a basis to stop, detain, arrest, or cite persons for prosecution in the federal criminal justice system, is not recognized, unless:

- (a) (I) the authority for the action has been expressly granted by an enacted federal statute and not by assimilation of any state laws or ordinances; and
(ii) is consistent with the Constitution of the United States; or
- (b) (I) the offense is an emergency and poses an immediate risk of bodily injury or damage to property;
(ii) a state, county, or municipal law enforcement officer is not reasonably available to take action; and
(iii) (A) the action is within the scope of the employee's or official's law enforcement power under a federal law that is enacted and that is not an assimilation of a state law or ordinance; and
(B) the authorizing federal law is consistent with the Constitution of the United States.

Subsection (7) is amended to emphasize the authority of county sheriffs.

- (8) (a) Local law enforcement agencies may enter into agreements with federal agencies granting [concurrent] limited authority to specific federal employees to exercise law enforcement powers to enforce federal laws and state and local laws, provided the agreements are limited to a term not to exceed two years.
(b) State law enforcement agencies may, with the consent of the local county sheriff, enter into agreements as described in Subsection (8)(a), provided that the agreements may not exceed a duration of two years.

Finally, the bill amends §76-8-512, Impersonation of {a Law Enforcement} Officer, to provide:

A person is guilty of a class B misdemeanor who:

- (1) . . .
- (2) . . .
- (3) . . .
- (4) exercises law enforcement authority in violation of Section 53-13-106.5 and is an employee of the:
 - (a) United States Bureau of Land Management; or
 - (b) (I) United States Forest Service; and
(ii) is not a certified law enforcement officer.

Amends: 53-13-106, 53-13-106.5 and 76-8-512.

HUMAN TRAFFICKING AMENDMENTS

HB 163

Rep. Jennifer Seelig

Modifies the Criminal Code, Code of Criminal Procedure, Judicial Code and Utah Office for Victims of Crime to incorporate provisions regarding human trafficking and human smuggling, including exploiting prostitution. The bill removed the statute of limitations for prosecutions of aggravated human trafficking, aggravated human smuggling and aggravated exploitation of

prostitution. The bill also provides that the lack of knowledge of the age of the victim is not a defense to aggravated human trafficking or aggravated human smuggling.

Along with the above changes this bill makes it a third degree felony when the defendant violates a pretrial criminal no contact order.

The bill defines a “child” as a person younger than 18 of age for purposes of human trafficking and smuggling.

The bill also defines “commercial purpose” as follows:

*“Commercial purpose” includes direct or indirect participation in or facilitation of the transportation of one or more persons for the purpose of:
charging or obtaining a fee for the transportation; or
obtaining, exchanging, or receiving any thing or item of value or an attempt to conduct any of these activities.*

The bill provides that if an actor recruits, harbors, transports or obtains a child for human trafficking, for forced labor or sexual exploitation, that constitutes aggravated human trafficking, a first degree felony. Otherwise, if involving a child, aggravated human trafficking would be a second degree felony. The bill also provides that sexual abuse of a child includes human trafficking or human smuggling of a child.

Provides that if the offense of patronizing a prostitute involves a child it is a third degree felony. Further provides that if the offense of exploitation of prostitution involves human trafficking or human smuggling, it is aggravated exploitation of prostitution a second degree felony.

The bill allows a court to authorize an order for interception of communication when there is human trafficking, human smuggling, aggravated human trafficking or aggravated human smuggling.

STATE AND POLITICAL SUBDIVISION JURISDICTIONAL AMENDMENTS

[HB 164](#)

Rep. Marc Roberts

From Adam Trupp

This legislation describes the jurisdictional authority that may be exercised by a chief executive officer of a municipality or county, or by a county sheriff, in response to action taken or not taken by the United States Bureau of Land Management or the United States Forest Service on federally managed land in the state, which action or inaction adversely affects or constitutes an imminent threat to the health, safety or welfare of the people of the municipality or county.

The bill requires the governmental entity to provide written notice of the imminent (or presumably, near-imminent) threat to the BLM or Forest Service, and authorizes taking action to mitigate the risk if, after receiving notice, the BLM or Forest Service does not mitigate the risk.

The bill raises some questions about appropriate exercise of authority on Federal lands. It does try to draw some boundaries around exercise of that authority to ensure its use is tailored to a defined need. The bill arises from concerns in many counties about the federal agencies' failure to manage the lands in a way that avoids dangers to communities bordering (or surrounded by) those lands.

From Bradley Johnson:

This legislation is one more shot across the bow of the federal government and enacts the “Local Jurisdiction Related to Federally Managed Land Act.” The Act allows the chief executive officer or county sheriff of a political subdivision, whose political subdivision encompasses or is adjacent to federally managed land, to provide written notice to the relevant federal agency that the agency’s action or inaction “adversely affects or constitutes an imminent threat to the health, safety, or welfare of the people of the political subdivision.” The chief executive officer or sheriff must provide a deadline for the federal agency to respond and if the agency does not timely respond, the chief executive officer or county sheriff may “take action to mitigate the risk to the health, safety, or welfare of the people of the political subdivision.” No guidance is given as to what might constitute an adverse affect or imminent threat to the health, safety, or welfare of the public nor is there any guidance on what types of action can be taken.

Enacts: 11-50-101, 11-50-102 and 11-50-103

AIR QUALITY MITIGATION BY GOVERNMENT ENTITIES

HB 168

Rep. Patrice Arent

This bill creates a new requirement that government “agencies” and school districts which are in whole or part of “designated counties” submit a report which details their air quality mitigation efforts and plans. The various plans will be eventually submitted to the State Economic Development Task Force. The deadlines for initial reporting are July 1st for school districts and August 1st for “agencies”. The agencies are the state legislature and staff legislative offices, any office in the executive branch, the judicial council and state institutions of higher education. The designated counties are Salt Lake, Davis, Utah, Weber, Box Elder, Cache, Duchesne and Uintah counties.

Enacts: 63G-17-101, 63G-17-102, 63G-17-201 and 63G-17-202

DEOXYRIBONUCLEIC ACID (DNA) COLLECTION AND RETENTION AMENDMENTS

HB 170

Rep. Steve Eliason

Although the collection of DNA samples at arrest is pending before the United States Supreme Court, the sponsor decided to expand the category at this time. Section 53-10-403 is amended to expand the list of crimes for which DNA samples may be taken at booking from any violent felony as defined in 53-10-403.5 to a long list of other crimes. That list includes sale of body parts, failure to stop at an accident resulting in death, driving with any amount of controlled

substance in the body causing serious injury or death, enticing a minor over the internet, etc. Jails taking DNA samples at booking will need to have the greatly expanded list.

Amends: 53-10-403

PUBLIC SAFETY RADIO COMMUNICATION AMENDMENTS

HB 172

Rep. Brad Dee

This bill was very important to the members of the Law Enforcement Legislative Committee. The bill:

- directs that the Utah Communications Agency Network (UCAN) operate on a statewide basis;
- provides that UCAN provide the public safety network for all state and local governmental agencies:
 - that currently subscribe to UCAN; and
 - that currently do not subscribe to UCAN;
- provides that UCAN maintain the current high-band network;
- increases the membership of the UCAN executive committee from 17 to 21 members and specifies the state agencies the members represent:
 - the Executive Director of UDOT or the director's designee;
 - the Commissioner of Public Safety or the commissioner's designee;
 - the Executive Director of the Department of Natural Resources or the director's designee;
 - the Executive Director of the Department of Corrections or the director's designee; and
 - the Chief Information Officer or the officer's designee); and
- changes the quorum requirement.

Amends: 63C-7-102, 63C-7-202, 63C-7-204 and 63C-7-205.

LOCAL POLITICAL SUBDIVISION BONDING NOTICE REQUIREMENTS

HB 175

Rep. John Knotwell

This bill is part of an increased focus, fostered by some of the newer members of the legislature, on the cost of debt at the Federal and State level. The change is not too substantial, and is really just intended to provide additional information to the public.

Currently, when a resolution is passed for the issuance of bonds, local governments can either publish the entire resolution, or it may publish a notice that has specific information, including:

- the name of the issuer,
- the purpose of the issue,
- the type of bonds and the maximum principal amount which may be issued,

- the maximum number of years over which the bonds may mature,
- the maximum interest rate which the bonds may bear,
- the maximum discount from par at which the bonds may be sold,
- a general description of the security pledged for repayment of the bonds, and
- the times and place where the resolution may be examined.

This bill identifies additional information that must be published if the entire resolution is not published. In addition to the current publishing requirements in 11-14-316, the following information will now have to be included in the publication:

- the total par amount of bonds currently outstanding that are secured by the same pledge of revenues as the proposed bonds, if any;
- information on a method by which an individual may obtain access to more detailed information relating to the outstanding bonds of the local political subdivision; and
- the estimated total cost to the local political subdivision for the proposed bonds if the bonds are held until maturity, based on interest rates in effect at the time that the local political subdivision publishes the notice.

Amends: 11-14-316

COUNTY CLERK MISCONDUCT PENALTY

HB 192

Rep. Dana Layton

This is another of several penalty provision cleanup bills run by the sentencing commission to remove odd sentencing schemes or language from the code and replace them with standard penalties. This bill cleans up misconduct by county clerks who allow bad marriages:

“Every clerk or deputy clerk who knowingly issues a license for any prohibited marriage ~~[shall be punished by confinement in the state prison for a term not exceeding two years, or by fine in any sum not exceeding \$1,000 ... yada yada]~~ is guilty of a class A misdemeanor.”

Amends: 30-1-16

ENERGY CONSERVATION CODE AMENDMENTS

HB 202

Rep. Brad Wilson

The enactment of this bill adopts the 2012 version of the International Energy Conservation Code (old version was 2009), and tweaks some of the language in the International Residential [building] Code, and the International Energy Conservation Code, specifically as to insulation requirements, and testing requirements during and after construction to determine energy efficiency. It also requires a 2013 interim study on energy efficiency and makes an effective date contingent upon the Department of Energy having RESCheck software that can accommodate the changes.

Amends: 15A-2-103, 15A-3-203 and 15A-3-701
Enacts: Uncodified Material

Effective date: This bill takes effect on the first day of the month following the month in which the Uniform Building Code Commission certifies in writing to the Business and Labor Interim Committee that the United States Department of Energy has adopted a version of the RESCheck software that can be used to verify compliance to the requirements of this bill.

ELECTION AMENDMENTS

HB 204

Rep. Steve Eliason

Absentee ballots must be applied for and cast in person at the office of the election officer no later than the Thursday prior to election day, or submitted to the polling location of the political subdivision where the voter lives. If the absentee ballot is mailed it must be postmarked before election day and received before noon of the day of the canvass.

An absentee voter may deliver a completed absentee ballot to a polling location in the political subdivision where he resides or he may submit an incomplete absentee ballot to his polling location, request that it be declared spoiled and then vote in person.

Amends: 20A-3-301, 20A-3-304, 20A-3-306, 20A-3-702, 20A-16-302, 20A-16-401 and 20A-16-402

CONTINGENCY PLANS FOR POLITICAL SUBDIVISIONS

HB 205

Rep. Ken Ivory

This bill requires a political subdivision that receives federal funds comprising 10% or more of the political subdivision's annual budget to develop and publish a contingency plan describing how the political subdivision will operate in the event the federal funds it receives are reduced by more than 5% but less than 25%. The plan must be published on the entity's website, if it maintains one, and submitted to the state auditor each year. Federal funds are those defined in 31 U.S.C. 36 Section 7501.

There are no deadlines established by the bill and there are no penalties for failing to make the report. This legislation coincides with similar legislation relating to State Government entities.

It is not clear how seriously the Legislature or State Auditor will take the requirement to file the contingency plan. It is not clear that anyone at the State will do anything with the report or that there will be any follow up on the requirement.

Enacts: 11-50-101, 11-50-102 and 11-50-103

CONCEALED WEAPON PERMIT FOR SERVICE MEMBERS

[HB 211](#)

Rep. Val Peterson

The intent of this bill is to simply allow a service member stationed in the state to apply for a concealed weapon permit on the same basis as a resident of the state, even though the service member may have an official residence in another state. It also waives the renewal fee for active duty service members and their spouses.

Amends: 53-5-702, 53-5-704 and 53-5-707

DISEASE TESTING FOR PUBLIC SAFETY OFFICERS AMENDMENTS

[HB 212](#)

Rep. Derek Brown

Under 78B-8-401, the definition of an emergency services provider now includes “an individual who provides for the care, control, support, or transport of a prisoner.”

Also, it adds to the definition of “significant exposure” for purposes of the section: “percutaneous injury, including a needle stick, cut with a sharp object or instrument, or a wound resulting from a human bite, scratch, or similar force.”

Under 78B-8-402, the requirements for a petition to require blood testing of a prisoner due to “significant exposure” to the emergency services provider are clarified. New language in the statute helpfully adds:

(6) The district court may enter an order requiring that an individual submit to testing, including blood testing, for a disease ... AND

(7) The court may order that the blood specimen be obtained by the use of reasonable force if the individual who is the subject of the petition is a prisoner.

Otherwise, this is not a criminally related bill – it is for health and safety of folks dealing with prisoners in medical service settings.

Amends: 78B-8-401, 78B-8-402 and 78B-8-404

PEACE OFFICER STANDARDS AND TRAINING AMENDMENTS

[HB 213](#)

Rep. Richard Greenwood

This bill:

- requires that all applicants for admission and certification as a peace officer be eligible to possess a firearm under state law;
- allows the POST Council to suspend or revoke a peace officer's certification if the officer is not eligible to possess a firearm;
- provides that federal agencies and federal employees as defined in Subsection 53-13-106.5(1) may exercise law enforcement authority related to misdemeanor and felony offenses under

Utah law only as established by an agreement under Subsection 53-13-106.5(7) (see the summary to HB 155 above); and

- provides that state and local law enforcement agencies may enter into agreements with federal agencies granting concurrent authority to enforce federal laws and state and local laws, provided the agreements are limited to a term not to exceed two years and that the officers granted authority have completed a 20-hour course focusing on Utah law and process that is approved by the Director of POST. (Again, see the summary of HB 155 above.)

Amends: 53-6-203, 53-6-211, 53-13-106 and 53-13-106.5.

STATE FIRE CODE ACT AMENDMENTS

[HB 217](#)

Rep. James Dunnigan

This bill will be of interest to building code inspectors and enforcers and to attorneys who's assignment includes amendments to local building codes to bring them into compliance with national and state codes.

The bill:

- updates the editions of nationally recognized codes that are incorporated by reference;
- amends provisions related to certain group care facilities and ambulatory surgical facilities;
- requires evacuation fire drills for secondary schools;
- modifies requirements regarding solar panels;
- modifies requirements regarding pump and riser rooms; and
- modifies requirements regarding the installation of automatic sprinkler systems.

The bill coordinates with HB 289, Fireworks Amendments, by providing superseding amendments.

Amends: 15A-5-103, 15A-5-202, 15A-5-203, 15A-5-204, 15A-5-205, 15A-5-206, 15A-5-207, 15A-5-302 and 15A-5-401.

Enacts: 15A-5-202.5 and 15A-5-205.5

Effective date: July 1, 2013

DOMESTIC ASSET PROTECTION TRUST AMENDMENTS

[HB 222](#)

Rep. Derek Brown

This bill restates the provisions for the domestic asset protection trust. A domestic asset protection trust essentially reverses the common law prohibition that a settler cannot create a spendthrift trust in his favor to protect his assets against creditors. It makes it easier and less costly to create such a trust and eliminates previous exemptions. Under prior law, "taxes or amounts owed by the settler to any governmental entity" including public assistance repayment obligations where not barred by the creation of the trust. This is no longer the case.

Counties should anticipate more of these trusts. Counties, as part of their best practices, may consider including something similar to the following language as a standard contract clause: “Any assets transferred by the [contracting party] or on his behalf to a domestic asset protection trust, whether before or after the execution of this contract, shall be subject to collection by the County as the result of any damages resulting from a breach of the contract by [contracting party]. [Contracting party] shall take all steps necessary to cause the transfer of such assets to the County in the case of a breach. In the event the [contracting party] fails to take the steps necessary to transfer the assets, the County may seek a court order instructing the trustees of the domestic asset protection trust to transfer such assets.”

Repeals & Reenacts: 25-6-14

EMERGENCY MANAGEMENT FUNDING AMENDMENTS

HB 223

Rep. Curtis Oda

Makes changes regarding the state division of Emergency Management, permitting that agency to expend or commit funds for expenditures necessary in response to a disaster, including for expenses incurred by the Utah National Guard.

Amends: 53-2-402, 53-2-403, 53-2-404, 53-2-406 and 63J-1-602.3

IMPACT FEE AMENDMENTS

HB 224

Rep. Stuart Adams

This was another bill that came out of the Land Use Task Force in response to complaints from developers that government entities were changing the standards for improvements after an impact fee had been adopted. Thus, this bill adds a definition for “level of service” and amends the definition of “private [water] entity” and makes other minor definition changes. It then requires that the entity imposing the impact fee establish a level of service in the facility plan as well as identifying the existing infrastructure for which the level of service will need to be increased (or decreased) as a result of new growth. It then requires the entity to adhere to that standard or level of service when imposing the impact fee. It also requires that entities look at all revenue sources (bonds, grants, etc) to meet the needs of the plan before relying on impact fees to do it. Lastly it adds an option that prior to the imposition of the impact fee, a party may challenge or request a review of the study done in support of the fee.

Amends: 10-9a-305, 10-9a-510, 11-36a-102, 11-36a-301, 11-36a-302, 11-36a-703, 13-43-205, 17-27a-305, 17-27a-509 and 17B-1-118

COHABITANT DEFINITIONS

[HB 227](#)

Rep. Brad Wilson

Broadens the definition to include people who had one or more children in common.

Amends: 78B-7-102

CRIMINAL IDENTITY FRAUD AMENDMENTS

[HB 229](#)

Rep. Curtis Oda

This bill was a legislative response to *State v. Rincon*. In that case the Utah Court of Appeals ruled that a person could not be convicted of obtaining personal identifying information of another if the actor simply made up a Social Security number. The court held that the defendant had to know the number belonged to another person in order to be “obtaining.”

A person now commits ID theft when he or she knowingly or intentionally uses or attempts to use the personal identifying information of another, whether that person is alive or deceased.

EMERGENCY VEHICLE OPERATORS TRAINING REQUIREMENTS

[HB 230](#)

Rep. Gage Froerer

Provides that, effective January 31, 2014, every operator of an ambulance or emergency medical response vehicle shall annually provide to the Department of Health proof of successful completion of an emergency vehicle operator’s course that has been approved by that department.

Amends: 26-8a-105 and 26-8a-304.

CRIMINAL PENALTY AMENDMENTS

[HB 232](#)

Rep. Craig Hall

This was a Sentencing Commission measure to bring into line the criminal provisions of Section 76-10-920 regarding penalties for price fixing, bid rigging, etc. The punishment is made a regular 3rd degree felony rather than the odd provision of imprisonment for an indeterminate term not to exceed 3 years.

Amends: 76-10-920

PROCESS SERVER AMENDMENTS

[HB 235](#)

Rep. Lee Perry

The bill prohibits a convicted felony sex offender from serving process issued by a court.

It also provides that a person who is a respondent in a Protective Order proceeding in which a court has granted the petitioner a protective order, or a person subject to a current protective order from serving process issued by a court.

Any service of process where the use of force is authorized on the face of the document, a breach of the peace is imminent or likely under the totality of the circumstances may only be served by (a) a law enforcement officer, as defined in Section 53-13-103 or (b) a constable, as defined in Subsection 53-13-105(1)(b)(ii).

Language put into the statute by last year's SB 210 which provided for Sheriff's oversight of private investigators who were serving process was removed as follows:

~~[(c) A complaint regarding a private investigator serving process may be made to and investigated by the sheriff of the county where the incident being complained of occurred. If the sheriff determines the complaint is credible, the sheriff may restrict or prohibit a licensed private investigator from serving any or all types of process within the county.]~~

Amends: 78B-8-302

LAND DEVELOPMENT REVISIONS

HB 236

Rep. Mel Brown

This bill does two things:

- 1) it prohibits counties from requiring any landscaping or re-vegetation on single family lots after the building is complete unless the dwelling (or building) is in the flood plain or in a geological hazzard area; and
- 2) it limits a county's ability to enforce if development occurs contrary to the approved site plans.

This bill applies only to the County Land Use and Management Act and does not amend the municipal counterpart.

Amends: 17-27a-103 and 17-27a-505

Enacts: 17-27a-522

SURETY BOND PENALTY

HB 237

Rep. Richard Greenwood

Another of the several penalty provision cleanup bills run by the sentencing commission to remove odd sentencing schemes or language from the code and replace them with standard penalties. This bill cleans up the penalty for false statement on a bond:

“(3) Any person who makes a material false statement [in] with respect [thereto shall constitute a] to Subsection (2) is guilty of a third degree felony[; provided further, that when].

Amends: 52-1-13

JURY SERVICE AMENDMENTS

[HB 239](#)

Rep. Craig Hall

78B-1-110. Limitations on jury service.

In any two-year period, a person may not [~~be required~~]:

- (1) be required to serve on more than one grand jury;
- (2) be required to serve as both a grand and trial juror; [~~or~~]
- (3) be required to attend court for prospective jury service as a trial juror more than one court day, except if necessary to complete service in a particular case[-]; or
- (4) if summoned for prospective jury service and the summons is complied with as directed, be selected for the qualified jury list more than once.

Prosecutors need to be aware of newly enacted subsection (4). It seems to provide that a person who has served on a petit or grand jury within the past two years MAY NOT be selected for jury service, even if the person makes no objection. If such a person were to be seated on a jury and the mistake was not discovered until later, what would be the remedy?

Effective date: January 1, 2014

Amends: 78B-1-107 and 78B-1-110.

ALCOHOL SERVICE IN RESTAURANTS

[HB 240](#)

Rep. Janice Fisher

Instead of only serving alcohol in connection with a food order in a restaurant, the restaurant need only determine the customer intends to order food before furnishing alcohol.

Amends: 32B-6-205, 32B-6-305 and 32B-6-905

OFFENDER REGISTRY REVIEW

[HB 243](#)

Rep. Jack Draxler

Under existing law from the 2012 legislative session, certain offenders can petition to be removed from the Sex Offender and Kidnap Registry. This act makes a minor change to who is eligible to petition for removal from the registry. If a defendant is on the registry for conviction of the crime of Unlawful Sexual Conduct with a 16 or 17 year old, that defendant may petition to be removed from the registry if that defendant is not more than 15 years older than the victim.

Amends: 77-41-112

UNAFFILIATED VOTER AMENDMENTS

[HB 262](#)

Rep. Craig Hall

This merely repeals the repeal date for language allowing an unaffiliated voter to designate or change party affiliation.

Amends: 20A-3-105.5, 20A-4-105 and 20A-4-107

TRAFFIC SIGNAL AMENDMENTS

[HB 272](#)

Rep. Michael Kennedy

Provides that, if permitted by a traffic control device, the operator of a vehicle facing a steady red arrow signal may cautiously enter the intersection to turn left from a one-way street into a one-way street after stopping as required. The operator shall yield the right-of-way to another vehicle moving through the intersection in accordance with a traffic control signal and to pedestrians lawfully within an adjacent crosswalk.

Amends: 41-6a-305

ADMINISTRATIVE HEARINGS BY COUNTIES

[HB 279](#)

Rep. Spencer Cox

Permits counties to adopt an ordinance establishing an administrative hearing process to enforce county ordinances and regulations. Counties are prohibited from imposing a civil penalty for moving traffic violations.

Enacts: 17-53-228

COUNTY GOVERNMENT REFORM

[HB 280](#)

Rep. Melvin Brown

This bill was proposed by the sponsor because of his interest in giving citizens of the county an opportunity to attempt to undo a decision to adopt an "alternate" form of government. The bill makes the process for going from an alternate form back to a commission (or prior form) much less complicated than adopting an alternate form in the first place.

It authorizes voters to petition for and then vote on a repeal of a previously adopted optional plan. The petition must contain signatures of registered voters equal to 15% of the number of votes cast in 85% of the voting precincts in the county during the last presidential election. If the required number of signatures are gathered, and the county clerk certifies the petition, the county governing body must put the issue on the ballot at the next general election.

A petition may not be submitted to the county governing body any sooner than four years after the county officers take their seats in the alternate form of county government. If the petition to return to the prior form fails, the bill prohibits another petition being presented to the county governing body for four years.

The bill also briefly defines the process for electing new governing body members.

Amends: 17-52-203

Enacts: 17-52-405

SEXUAL EXPLOITATION OF A CHILD

HB 282

Rep. Richard Greenwood

Broadens the language “visual depiction of a minor.” Previously the statute prohibited “lascivious exhibition of the genitals or pubic region.” The new amended language now includes “lascivious exhibition of the buttocks or female breast” of a child, which is consistent with the definition of child pornography.

Amends: 76-5b-103

RETURN OF WEAPONS RECOVERED BY LAW ENFORCEMENT

HB 287

Rep. Keven Stratton

Section 77-24-2 regarding property not needed as evidence is amended to require a law enforcement agency to return a weapon to its legal owner if the weapon is no longer is needed as evidence and the legal owner may legally possess the weapon and was not convicted of a crime for which the weapon was held as evidence. The evidence custodian is required to “receive and consider a sworn declaration of ownership to establish ownership of the property”. The evidence custodian does have some leeway to decide whether the proof is “satisfactory to the evidence custodian” that the owner is legitimate.

Amends: 77-24-2

Repeals: 76-10-525

FIREWORKS AMENDMENTS

HB 289

Rep. James Dunnigan

The legislative body of a municipality within which hazardous environmental conditions exist may prohibit the use of any ignition source, including fireworks, lighters, matches, and smoking materials, in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area.

Where the hazardous environmental conditions exist in unincorporated areas, the state forester may prohibit the use of the ignition source in all or part of these areas, after consulting with the county fire code official having jurisdiction over that area.

A county or municipality may prohibit any person from discharging class C common state approved explosives:

- (a) as provided in Subsection 15A-5-202.5(1)(c); or
- (b) in accordance with a municipal ordinance prohibiting the negligent discharge of class C common state approved explosives.

Amends: 15A-5-202 and 53-7-225

MOTOR VEHICLE SAFETY INSPECTION AMENDMENTS

HB 291

Rep. Jeremy Peterson

Under this bill a licensed dealer may issue a temporary permit for a motor vehicle if the vehicle passed a statutorily scheduled safety inspection within the previous 11 months. Before this bill the time period was 6 months.

Amends: 41-3-303

BICYCLES ON STREETS

HB 294

Rep. Johnny Anderson

This bill provides that a person may operate a motor vehicle left of center when overtaking and passing a bicycle or moped proceeding in the same direction at a speed less than the reasonable speed of traffic that is present. An operator may not do so if:

- overtaking and passing cannot be done safely;
- when approaching or upon the crest of a grade or upon a curve in the highway where the operator's view is in any way obstructed;
- when approaching within 100 feet of, or traversing, any intersection or railroad grade crossing unless otherwise indicated by a traffic control device;
- when the operator's view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel; or
- when the pass cannot be made under the passing to the right provisions in section 41-6a-706.5.

Amends: 41-6a-701 and 41-6a-708

ELECTRONIC PROOF OF OWNER'S OR OPERATOR'S SECURITY

HB 295

Rep. Derek Brown

Pursuant to this bill, a person may provide evidence of liability insurance to a peace officer evidence in either hard copy format or in electronic format, using a mobile electronic device. If a person uses a mobile electronic device the peace officer may not view any other content on the device. A peace officer is not subject to civil or criminal liability for inadvertently viewing other content.

Amends: 41-1a-109, 41-12a-303.2 and 41-12a-804

BICYCLE AND MOPED AMENDMENTS

HB 297

Rep. Johnny Anderson

Provides that the operator of a vehicle may drive in a center lane that is a designated two-way left turn lane if

- the center lane is on a roadway divided into three or more lanes that provides for two-way movement of traffic and is clear of traffic within a safe distance;
- there is only one lane of travel in the direction in which the operator is traveling; and
- the operator is overtaking and passing a bicycle or moped that is moving at less than the reasonable speed of traffic that is present.

Amends: 41-6a-710

BICYCLE MODIFICATIONS

HB 299

Rep. Johnny Anderson

Modifies the definitions of “bicycle” and of “electric assisted bicycle.” Provides that equipping the rider of a bicycle, rather than the bicycle itself, with certain lamps and reflective material meets equipment requirements for riding when it is dark. “Dark” is defined in unamended section 41-6a-1603(1)(a) as a half hour after sunset to a half hour before sunrise, or at other times when insufficient light or atmospheric conditions prevent persons and vehicles on the highway from being clearly discernable from 1,000 feet.

Amends: 41-6a-102, 41-6a-1114 and 41-6a-1634

RETENTION OF SALES AND USE TAX COLLECTIONS BY CERTAIN REMOTE SELLERS

HB 300

Rep. Steve Eliason

This bill allows remote sellers to voluntarily collect and remit sales tax, but retain 18% of

the tax. This should increase sales tax receipts by broadening the base. However, it comes at a cost to taxpayers. Taxpayers in Utah will effectively pay a collection fee equal to 18% of their sales tax collected by these remote sellers. It takes effect on January 1, 2014. Surely there is a more efficient way to broaden the base.

Amends: 59-2-1001, 59-2-1004, 59-2-1006, 61-2g-301, 61-2g-406 and 61-2g-407

ENTERPRISE ZONE AMENDMENTS

HB 304

Rep. Kraig Powell

This bill makes one change to the Enterprise Zone law to require that a municipality seeking designation as an enterprise zone certify it has a population of less than 15,000 people. (It used to be a city or town of the 5th class).

Amends: 63M-1-404

CONSTRUCTION CODE AMENDMENTS

HB 310

Rep. Brad Wilson

Let your building officials know that the 2012 editions of the International Building Code, International Residential Code, International Plumbing Code, International Mechanical Code, and International Fuel Gas Code have been adopted. As always, there were local (State) amendments made, particularly in regard to child and day care centers, assisted living facilities and similar occupancies. (Since the bill has 2,182 lines, even a summary won't fit here!)

Amends: 15A-2-103, 15A-2-104, 15A-3-102, 15A-3-103, 15A-3-104, 15A-3-105, 15A-3-107, 15A-3-108, 15A-3-110, 15A-3-112, 15A-3-113, 15A-3-202, 15A-3-204, 15A-3-205, 15A-3-206, 15A-3-302, 15A-3-303, 15A-3-304, 15A-3-305, 15A-3-306, 15A-3-307, 15A-3-309, 15A-3-310, 15A-3-311, 15A-3-313, 15A-3-314, 15A-3-401, 15A-3-501, 15A-3-601 and 15A-3-801

Repeals: 15A-4-302, 15A-4-304, 15A-4-305, 15A-4-306 and 15A-4-307

Effective Date: July 1, 2013

TRAFFIC AMENDMENTS

HB 316

Rep. Johnny Anderson

Provides that cities and towns may prohibit or regulate conduct on a highway or sidewalk if the conduct interferes with or impedes traffic. Activities which are subject to regulation including rolling a hoop, playing ball, flying a kite, riding a bicycle or tricycle or any other conduct or activity that interferes with traffic. The municipal regulation must not be inconsistent with any provision of Title 41, Chapter 6a, Traffic Code.

Further provides that a local highway authority may not enact an ordinance that prohibits use of a bicycle on any public street or highway, except as allowed by section 41-6a-714 – Freeway and Controlled-Access Highways, unless the local highway authority has reviewed the safety history of the highway and considered other reasonable alternatives, including signage and routes, and has clearly marked a safe alternative route for the prohibited section of highway.

Possibly the most notable part of this bill is the affirmative defense it contains, which provides that until July 1, 2014, an operator of a motorcycle, moped, or bicycle who is 16 years of age or older, may proceed against a steady circular red signal or red arrow if:

- the operator brings the motorcycle, moped, or bicycle to a complete stop at the intersection or stop line; and
- after waiting a reasonable period of time of not less than 90 seconds
 - determines that the traffic-control signal has not detected the operator's presence;
 - no other vehicle that is entitled to have the right-of-way is sitting at, traveling through, or approaching the intersection;
 - no pedestrians are attempting to cross at or near the intersection in the direction of travel of the operator; and
 - cautiously enters the intersection and proceeds across the roadway.

This affirmative defense does not apply at an active railroad grade crossing defined at section 41-6a-1005.

Amends: 10-8-69, 41-6a-208 and 41-6a-305

PROTECTION OF CONCEALED FIREARM PERMIT INFORMATION

HB 317

Rep. Jacob Anderegg

This is one of several similarly themed bills during the session. In short, it is meant to convey to the federal government a message of strength and autonomy by Utah. Happily, the version we see here is vastly improved from initial versions, which did not have the many exceptions for sharing in law enforcement investigations seen here, and also had higher penalties.

The main language:

(c) Notwithstanding Section 63G-2-206, a person may not share any of the information listed in Subsection (1)(b) with any office, department, division, or other agency of the federal government unless:

- Conduct criminal background check
- Pursuant to court order associated with a criminal investigation
- Disclosure is made to criminal justice agency in an investigation or prosecution
- The disclosure is from a law enforcement agency in this state to another law enforcement agency in this state in connection with an investigation or prosecution.
- The disclosure is made to a federal law enforcement official in a combined law enforcement effort involving a state law enforcement agency and the federal agency.
- The disclosure is made in response to a routine request that is made from a federal agency during on an individual the federal agent has detained, including a traffic stop, or questions

because of “a suspected violation of state law.”

A violation of this section (sharing with no exception) is a Class A Misdemeanor.

Next, the bill has this unique language:

- (e) (I) As used in this Subsection (1)(e), "governmental agency" means:
- (A) the state or any department, division, agency, or other instrumentality of the state; or
 - (B) a political subdivision of the state, including a county, city, town, school district, local district, and special service district.
- (ii) A governmental agency may not compel or attempt to compel an individual who has been issued a concealed firearm permit to divulge whether the individual:
- (A) has been issued a concealed firearm permit; or
 - (B) is carrying a concealed firearm.
- (iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.

Note that for a law enforcement officer, there is no restriction here. However, any person not an officer, but maybe working for law enforcement, or any employee of a city, town, school district etc, may not compel or attempt to compel a person to reveal their permit, or their gun.

Again, we have Utah’s version of “*Don’t Ask, Don’t Tell*”

Amends: 53-5-708 & 63G-2-801

TEMPORARY IDENTIFICATION CARD

HB 320

Rep. Eric Hutchings

Provides that Drivers License Division may issue a temporary regular identification card to a person while that person is in the process of obtaining documentation to verify of the information necessary under section 53-3-804(2). A temporary regular identification card issued under this bill shall grant the person the same privileges as a regular identification card. The temporary regular identification card becomes invalid when the person’s regular identification card has been issued; when, for good cause, the application for an identification card has been refused; or upon expiration. This bill takes effect July 1, 2013.

Amends: 53-3-805.

Effective Date: July 1, 2013

TECHNICAL AMENDMENTS - WEAPONS

HB 321

Rep. Ken Ivory

This actually was a technical amendment bill. The term “sawed off” shotgun and “sawed off” rifle are changed to read “short barreled.” This conforms the statutes to a federal definition.

This, of course, makes much more sense as it includes weapons which are manufactured with short barrels rather than having been “sawed off.”

Amends: 76-10-501, 76-10-504, 76-10-505.5, 76-10-509.4 and 76-10-509.5

PASSING ON THE RIGHT AMENDMENTS

HB 324

Rep. LaVar Christensen

Exempts a bicycle rider from the prohibition against driving off the roadway to overtake or pass another vehicle.

Amends: 41-6a-705

MILITARY INSTALLATION DEVELOPMENT AUTHORITY (“MIDA”) AMENDMENTS

HB 325

Rep. Brad Dee

These amendments to the MIDA Act increase the sources of revenue for a MIDA project by allowing the MIDA authority to impose a resort tax on the project area, even if there are no permanent residents, and allowing MIDA to impose and collect an energy tax similar to municipal energy taxes.

Amends: 59-12-401, 63H-1-102, 63H-1-203, 63H-1-302, 63H-1-403, 63H-1-501, 63H-1-502

Enacts: 63H-1-204

Effective date: July 1, 2013

DIVISION OF WATER RIGHTS AMENDMENTS

HB 326

Rep. Curt Webb

Requires the State Engineer to consider water rights addendums and conveyances filed in county recorders’ offices.

Amends: 73-1-10 and 73-1-11

HIGHWAY LITTERING AND FAILING TO SECURE A LOAD AMENDMENTS

HB 328

Rep. Richard Greenwood

This bill increases the minimum fine for littering on a highway from \$100 to \$200 for a first

offense, and from \$250 to \$500 for a second or subsequent offense within 3 years.

The bill also increases the fine for failing to secure a load on a highway from \$100 to \$200 for a first offense, and from \$250 to \$500 for a second or subsequent offense within 3 years. If the vehicle is a commercial vehicle as defined in section 72-9-102, the minimum fine is increased from \$250 to \$500 for a first offense, and from \$500 to \$1,000 for a second or subsequent offense within three years.

Amends: 41-6a-1713 and 72-7-409

FINANCIAL REPORTING AMENDMENTS

HB 330

Rep. Steve Eliason

Title 11 (Cities, Counties, and Local Taxing Units) is modified to add new Chapter 50, which is titled “Political Subdivision Financial Reporting Certification.” This new chapter provides that annual accounting reports prepared pursuant to Utah Code Section 51-2a-201 by counties, cities, towns, school districts, community development and renewal agencies, special improvement or taxing districts, local districts, special service districts, interlocal entities or other governmental subdivisions or public corporations – and filed with the State Auditor – shall be certified as correct by that entity’s Chief Administrative Officer and Chief Financial Officer (as designated by statute, or the governing body if no statutory designation).

Enacts: 11-50-101, 11-50-102, 11-50-201 and 11-50-202

SPECIAL SERVICE DISTRICT REORGANIZATION

HB 334

Rep. Dan McCay

This bill creates a process whereby a county that has established a special service district may convert that district to a local district. The process, in short, requires the county legislative body to adopt a resolution to make a change, hold a public hearing regarding the resolution and then authorize the dissolution of the special service district and the incorporation of the local district. The bill does not mandate any such reorganization and it provides that any such reorganization must be initiated by the county commission.

The bill also specifies the scope of the resolution that must be adopted and the status of a local district once converted from a special service district

Amends: 17-34-3, 17D-1-60, 17D-1-603 and 67-1a-6.5

Enacts: 17D-1-604

LOCAL DISTRICT AMENDMENTS

[HB 348](#)

Rep. Don Ipson

Requires the legislative body of a newly incorporated city to adopt, within 180 days after incorporation, a resolution approving withdrawal of the new municipality from certain local districts.

Amends: 17B-1-502

COUNTY GOVERNMENT AMENDMENTS

[HB 352](#)

Rep. Derek Brown

This bill clarifies that elected county officials may use their position to encourage support for activities or organizations that the official(s) believes would be beneficial to the community. It is legislation that may not be necessary, but which does clarify that an elected official can provide leadership and guidance in support of the community.

The specific language is:

(4) Notwithstanding the provisions of this section, a county or county official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

The bill also clarifies the law by modifying currently undefined language relating to campaign contributions to make reference to more clearly defined sections relating to campaign contributions.

Amends: 17-16a-4

Effective date: May 1, 2013

WASTE MANAGEMENT FACILITIES SIGHTING AMENDMENTS

[HB 357](#)

Rep. Ronda Menlove

When a waste operation applies to the state Solid and Hazardous Waste Control Board for a new facility or site, this bill mandates that the application must include a traffic impact study conducted by either UDOT or by the local government highway authority.

The application for a solid waste facility owned by a local government must include full financial information disclosing all costs of establishing and operating the new facility.

Amends: 19-6-108

WATER AND IRRIGATION REVISIONS

HB 360

Rep. Ryan Wilcox

If a water right, or a portion thereof, is not used for 7 years, it may be forfeited. If the identified parties file an application regarding the “nonuse,” the 7 year period is tolled. (See SB 30.)

Amends: 73-1-4

DOMESTIC VIOLENCE STATISTICS REPORTING

HB 361

Rep. Lee Perry

Since 2009, law enforcement agencies in class 1 and class 2 cities have been required to collect certain data regarding domestic violence. The required data to be collected is: 1) marital status of suspect and victim; 2) relationship between suspect and perpetrator; and 3) whether an arrest was made.

This bill requires that the data that has been collected per the above mandate be compiled and reported to the Law Enforcement and Criminal Justice Interim Committee by May 31, 2013. The goal stated during the hearing on this bill is to “shape law enforcement response to domestic violence.”

Amends: 77-36-2.2

ELECTION REVISIONS

HB 378

Rep. Craig Hall

A person who is registered to vote in the state is now legally entitled to vote if he did not vote in his precinct of residence but did vote in the county where he resides and the ballot includes one or more candidates or ballot propositions that are on the ballot of his precinct. A poll worker may provide a provisional ballot to any person who can verify that he is a resident of the county. If the person is not registered to vote in the state and has filed a provisional ballot, that provisional ballot may be accepted as a voter registration form.

Amends: 20A-3-105.5, 20A-4-105 and 20A-4-107

PROPERTY DISPOSITION AMENDMENTS

HB 384

Rep. Brad Dee

This bill moves all of the provisions regarding forfeiture found throughout the Code into Title 24 and provides that any property used to facilitate the commission of a state or federal crime or that is the proceeds of criminal activity may be forfeited.

The bill also moves the procedures for handling and disposing of property held as evidence (formerly in Title 77, Chapter 24) and the procedures for disposing of weapons (formerly found in Section 76-10-525) into Title 24.

The bill clarifies the procedures law enforcement must follow when property is seized as evidence or seized for forfeiture. It also describes the obligations that prosecutors have to notify law enforcement when property no longer needs to be held as evidence and allows prosecutors to seek a court order to use a defendant's property to pay outstanding fines, fees and restitution.

Amends: 23-20-1, 32B-4-206, 41-6a-527, 53-7-406, 63J-1-602.1, 76-6-903, 76-10-1603.5, 77-24a-2, 77-24a-3, 77-24a-4 and 77-24a-5

Enacts: 24-1-101, 24-1-102, 24-1-103, 24-2-101, 24-2-102, 24-2-103, 24-3-101, 24-3-102, 24-3-103, 24-3-104, 24-4-101, 24-4-102, 24-4-103, 24-4-104, 24-4-105, 24-4-106, 24-4-107, 24-4-108, 24-4-109, 24-4-110, 24-4-111, 24-4-112, 24-4-113, 24-4-114, 24-4-115 and 24-4-116

Repeals &

Reenacts: 77-24a-1

Repeals: 24-1-1, 24-1-2, 24-1-3, 24-1-3.5, 24-1-4, 24-1-5, 24-1-6, 24-1-7, 24-1-8, 24-1-9, 24-1-10, 24-1-11, 24-1-12, 24-1-13, 24-1-14, 24-1-15, 24-1-17, 24-1-18, 24-1-19, 24-1-20, 41-6a-211, 58-37-13, 76-3-501, 76-10-525, 76-10-1107, 76-10-1908, 77-24-1, 77-24-1.5, 77-24-2, 77-24-3, 77-24-4 and 77-24-5

Enacts Uncodified Material

Effective Date: July 1, 2013.

BAIL BOND AMENDMENTS

[HB 386](#)

Rep. Curtis Oda

The portion of this bill that is of interest to law enforcement and prosecutors is amendments to §53-11-121, False Representation as a Licensee -- Badge -- Identifying Clothing. The section deals with the identifying clothing and badge that may or must be worn, possessed or displayed by a licensed bail enforcement agent when acting officially.

Existing language in subparagraph (2) provides that a bail enforcement agent may possess a badge of a design approved by the Bail Bond Recovery Licensure Board. There is no requirement that a bond enforcement agent obtain, possess or display any badge.

If the bail enforcement agent opts to obtain and possess a badge, the bill provides the following regarding wearing and display of the badge. The bill also provides that the bail enforcement agent shall wear identifying clothing.

(3) The licensee shall wear the badge under Subsection (2) in a manner that prevents the accidental or inadvertent display of the badge to persons in the presence of the licensee.

(4) The licensee may [~~wear or~~] display the badge under Subsection (2) only if:

(a) the licensee is also at the same time wearing an article of clothing that conspicuously

displays on the chest and back of the article of clothing lettering that clearly identifies the licensee as a bail enforcement or recovery agent[-];

(b) the licensee also displays the licensee's identification card described in Section 53-11-116.5, either:

(I) upon request, while acting as a bail enforcement agent; or

(ii) as necessary for the licensee to demonstrate authority while acting as a bail enforcement agent;

(c) the licensee is making a planned apprehension of a defendant, and the licensee is also wearing an article of clothing described in Subsection (4)(a) or Subsection (5);

(d) the licensee is making an apprehension that is unplanned and under exigent circumstances, and the licensee is not wearing clothing described in Subsection (4)(a) or Subsection (5); or

(e) the licensee is acting as a bail enforcement agent but is not engaged in a planned apprehension or in another situation that does not require that the agent be wearing clothing as described in Subsection (4)(a) or (5) in order to display the badge.

(5) A licensee may wear a jacket of a distinctive design or style that bears a printed, embroidered, or otherwise permanently attached symbol, emblem, or insignia that:

(a) clearly identifies the wearer as a bail enforcement or recovery agent; and

(b) is approved by the board.

(6) When a licensee is acting as a bail enforcement agent and interacts with a law enforcement officer, the licensee shall, at the first opportunity, identify him or herself to the law enforcement officer and shall provide identification as a bail enforcement agent.

Amends: 53-10-202, 53-11-105, 53-11-115 and 53-11-121

GOVERNMENT COMMUNICATIONS TASK FORCE

HB 388

Rep. Brad Dee

Creates a state Government Communications Task Force, which includes local government representatives, to oversee and make recommendations regarding governmental radio communication systems dealing with public safety, transportation and public works.

This material is not codified.

MUNICIPAL ELECTION AMENDMENTS

HB 403

Rep. R. Curt Webb

This bill changes the filing dates for the following situations in municipal elections:

- A political party must file its petition to qualify as a municipal political party by May 31 of an odd-numbered year.
- A person must file for candidacy between June 1 and June 7 of any odd-numbered year.
- The local district clerk shall certify the local district candidate names no later than June 12

- of the municipal election year.
- A write-in candidate must file a declaration of candidacy not later than 60 days before a municipal general election.

Amends: 17B-1-306, 20A-9-203, 20A-9-404 and 20A-9-601

CRIMINAL SUSPECT PHOTOGRAPHS

HB 408

Rep. Paul Ray

The Sheriffs were upset by the current lame practice of certain websites obtaining booking photos (which are public), posting them to the internet and then offering to remove them, but only for a fee, from the embarrassed arrestee. This statute was created to address the practice:

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

(a) the booking photograph will be placed in a publication or posted to a website; and

(b) removal of the booking photograph from the publication or website requires the payment of a fee or other consideration.

A person who requests booking photographs must will have to submit a sworn statement that they will not be placed in a publication for which there is a fee for its removal.

And, a person who submits a false sworn statement under the section is “criminally liable” as provided in 76-8-504 (Class B Misdemeanor).

Enacts: 17-22-30

CONCURRENT RESOLUTION URGING USE OF ADVANCE SIGNAL WARNING

HCR 1

Rep. Jack Draxler

House Concurrent Resolution 1 encourages highway authorities in Utah to proactively identify intersections that may benefit from advance warning signs and install signing at those intersections as soon as is feasible.

CONCURRENT RESOLUTION HONORING MAJOR GENERAL BRIAN L. TARBET

HCR 3

Rep. Val Peterson

This resolution honors Major General Brian Tarbet for his 39 years of service in the Military. And may it be said Brian Tarbet is very much deserving of this and his other distinctions and honors.

**CONCURRENT RESOLUTION ON REGIONAL
CORRECTIONAL FACILITIES AND COUNTY JAIL CONTRACTING**

HCR 5 **Rep. Michael Noel**

This concurrent resolution has nor force of law, but it does put the legislature and the governor on record as recognizing that regional correctional facilities and county jail contracting can assist the state in addressing increasing incarceration costs and critical prison space needs.

SENATE BILLS

IGNITION INTERLOCK PROGRAM AMENDMENTS

[SB 13](#)

Sen. Daniel Thatcher

This bill is designed to address a situation in which an out-of-state driver commits an offense in Utah for which an interlock ignition device is ordered or mandated to be installed under Utah law. That is difficult if the driver is from another state. The bill provides that Drivers License Division may clear the suspension for an ignition interlock violation upon verifying the driver does not have a vehicle registered in his or her name in the state of Utah.

Amends: 53-3-1007

WATER AND IRRIGATION AMENDMENTS

[SB 30](#)

Sen. Margaret Dayton

This bill states that the 7 year forfeiture for nonuse period established in HB 360 must be within the last 15 years. It also clarifies trigger dates. It grants authority to the State Engineer to make rules for the reuse of wastewater.

Amends: 73-1-4, 73-2-1, 73-2-22, 73-3-12, 73-3-16 and 73-5-13

SALES AND USE TAX REVISIONS

[SB 33](#)

Sen. Howard Stephenson

This bill enacts a sales and use tax exemption for certain sales or leases if the ownership of the seller and the ownership of the purchaser are identical or the ownership of the lessor and the ownership of the lessee are identical. It also enacts a sales and use tax exemption for certain purchases of machinery and equipment if a percentage of the purchaser's sales revenues are admission or user fees subject to sales and use taxation. The State Tax Commission has rule making authority and must report to the Revenue and Taxation Interim Committee.

Amends: 28 59-12-104

Effective date: July 1, 2013

PROPERTY TAXATION OF BUSINESS PERSONAL PROPERTY

[SB 35](#)

Sen. Wayne Harper

This bill increases the personal property de minimis exemption in Section 59-2-1115 from

\$3,500 to \$10,000. This may be unconstitutional. This is the same change as item 2 in HB 67 above.

Amends: 59-2-1115

Effective date: January 1, 2014

TIME PERIOD FOR PAYING A TAX, INTEREST, OR PENALTIES AFTER A JUDICIAL DECISION

SB 37

Sen. Deidre Henderson

Changes from 45 days to 30 days the time period in which a taxpayer must pay taxes, interest, and penalties after a court order becomes final.

Amends: 59-1-611

CONSTRUCTION TRADES LICENSING REVISIONS

SB 44

Sen. Karen Mayne

This bill reduces the number of days of a time interval in which an unincorporated entity is required to submit an ownership status report and provides for an automatic suspension of a license if the licensee becomes an unincorporated entity or transfers the license to an unincorporated entity.

The important provision for governmental entities is that whenever we issue a permit that requires a contractor's license, we must require proof:

- of workers' compensation coverage;
- that the applicant is paying into the unemployment insurance fund;
- that the applicant is providing any required health insurance; and
- that the applicant is withholding applicable taxes.

Amends: 58-55-302, 58-55-303, 58-55-306, 58-55-310, 58-55-501 and 58-55-503

WORKERS' COMPENSATION AND DIRECTORS OR OFFICERS

SB 45

Sen. Evan Vickers

A corporation may exclude up to 5 directors or officers from workers' compensation coverage upon providing notice to its insurance carrier and the Labor Commission.

Amends: 34A-2-104

AMENDMENTS TO SALES AND USE TAX

SB 58

Sen. Wayne Harper

This bill addresses the disposition of sales and use tax revenue if Congress or the Supreme Court of the United States take certain specified actions related to the collection of sales and use taxes by certain sellers that are not currently collecting sales and use taxes. (Read that to mean congressional action to enforce collection of state sales tax by out of state internet sellers.) The bill also establishes reporting requirements and requires the Division of Finance to make deposits and separately account for revenue.

Amends: 59-12-103 (Superseded 07/01/14), 59-12-103 (Effective 07/01/14), 59-12-103.1 and 59-12-103.2

HUNTING PERMIT AMENDMENTS

SB 61

Sen. Allen Christensen

This bill allows a minor to use the resident or nonresident hunting permit of another person if:

- (I) the resident minor is:
 - (A) the permit holder's child, stepchild, grandchild, or legal ward; or
 - (B) suffering from a life threatening medical condition; and
- (ii) the permit holder:
 - (A) receives no form of compensation or remuneration for allowing the minor to use the permit;
 - (B) obtains the division's prior written approval to allow the minor to use the permit; and
 - (C) accompanies the minor, for the purposes of advising and assisting during the hunt at a distance where the permit holder can communicate with the minor, in person, by voice or visual signals.

Amends: 23-19-1

PRISON RELOCATION AND DEVELOPMENT AMENDMENTS

SB 72

Sen. Scott Jenkins

This small, non-controversial bill passed once they were able to get the 8th Substitute drafted. The most basic summary is that the bill creates the Prison Relocation and Development Authority. That body is charged with evaluating the concept of moving the prison from Draper, proposing alternatives to the Draper prison, and evaluating uses for the land on which the current prison sits. The bill also defines the membership of the Authority and who is to appoint those members. There is no seat on the Authority identified for a representative of the counties.

It also establishes a process for the Authority to issue a request for proposals for a new prison

development project, current prison land development project, or master development project, and to receive and evaluate proposals, and make a recommendation to the Legislature and Governor. It appears to anticipate a moving of the prison without concluding what the new structure would look like.

Read this one for a better sense of the interests that are involved in this significant issue, not because of the immediate legal implications.

Amends: 63C-13-102, 63C-13-103 and 63C-13-105
Enacts: 63C-13-104.3, 63C-13-104.7, 63C-13-107 and 63C-13-108
Repeals: 63C-13-104

AVAILABILITY OF GOVERNMENT INFORMATION

[SB 77](#)

Sen. Deidre Henderson

This is part of a continuing effort to make records of meetings of public bodies more accessible on the internet. The focus of the bill is posting of minutes – Approved and "Pending" – within a short time after the meeting occurs. The bill also requires the posting of audio recordings. The posting must be to the Utah Public Notice website.

There is a lot of detail on what needs to be posted and when that I will not detail here. The primary points are:

- The requirement applies to
 - "specified local public body," which is defined to mean the legislative body of a county, city or town; and
 - "state public body," which is defined as a public body that is an administrative, advisory, executive or legislative body of the state.
- Minutes must be posted before they are officially approved at the next meeting of the body. "Pending minutes" are defined in the bill and are differentiated from approved minutes.
- Time frames for posting are short:
 - 30 days after the meeting to post the pending minutes,
 - 3 days after approval to post the approved minutes, and
 - 3 days after the meeting to post the audio recording or a link to it.

There may be some burdens imposed by these new requirements but they are not unforeseen as the Legislature continues to try to make the functions of local governments more transparent and accessible.

Amends: 52-4-203 and 63F-1-701

REMOVAL FROM DATABASE RESTRICTING FIREARM PURCHASE

SB 80

Sen. Daniel Thatcher

When a person is found not guilty by reason of insanity or incompetent to stand trial under state law or “mentally defective” under the federal standard, that person becomes a restricted person under Utah law and federal law. The person is then entered into a federal database through BCI. Up to now Utah law has not provided a way for any such person to later have his name removed from the national database (the National Instant Check System).

The federal government is currently encouraging states to pass laws which will remove a person from the federal database. In the near future such a process will be mandated by federal law. The consequence is to lose considerable federal grant funding.

Being alert to the funding issue, the Bureau of Criminal Identification and the courts put together this legislation to comply with the federal requirements. Much of the language in this bill is federally required. The bill enacts a new section 76-10-532 which provides a method for removing a person from the National Instant Check System database. It provides that a person may petition the district court in the county where the civil commitment, finding or adjudication occurred. It has requirements for the petition including: treatment; a release of records for the prosecutor or county attorney and a verified report from a licensed psychiatrist. The report from the psychiatrist must be within 30 days of filing the petition and must contain a description of the commitment or finding, mental health treatment and previous violent behavior, medications, etc. The psychiatrist is also required to give an opinion of the ability of the petitioner to maintain stability with or without medication and an opinion that the person is not dangerous to public safety. The court considers all of those factors and others including the petitioners criminal history.

If the original disability was based on a criminal case, notice is to be given to the county or district attorney’s office having jurisdiction. If the disability is not based on a criminal case notice must be given to the county or district attorney having jurisdiction where the petition is filed and also notice to the individual who filed the original action resulting in the disability. For instance the person who requested the original civil commitment.

The county attorneys were not delighted with the opportunity to add these petitions to their caseload, but there is not a great deal of choice given the federal guidelines. The county attorney or original petitioner for civil commitment may object to the petition and present evidence in support of that evidence.

If the district court finds by clear and convincing evidence that the person is not a danger to himself or others etc. then the court shall issue the relief. BCI then forwards the appropriate data to have the person removed from the National Instant Check System.

If the petition is denied then the person may not apply again for 2 years. There is an interesting quirk in this section. Appeal from the decision of the district court before the Court of Appeals is a “de novo” appeal. In this case it does not mean a “do over” of the evidence but rather a standard of review in which the reviewing court gives no difference to the finding of the trial court.

Again this is required by the federal standards.

Enacts: 76-10-532

LIMITATIONS ON OUTSIDE EMPLOYMENT BY GOVERNMENT EMPLOYEE

SB 83

Sen. Todd Weiler

This bill only involves state employees in the executive branch. They may not engage in outside employment that:

- constitutes a conflict of interest;
- interferes with the ability of the employee to fulfill the employee's job responsibilities;
- constitutes the provision of political services, political consultation, or lobbying;
- involves the provision of consulting services, legal services, or other services to a person that the employee could, within the course and scope of the employee's primary employment, provide to the person; or
- interferes with the hours that the employee is expected to perform work under the direction or control of an executive branch elected official, unless the employee takes authorized personal leave during the time that the person engages in the outside employment.

This bill also prohibits executive branch employees from outside employment that is part of their normal duties. The bill brings management under the same restrictions.

Amends: 67-25-102

Enacts: 67-25-301 and 67-25-302

SALES AND USE TAX EXEMPTION FOR SHORT-TERM LODGING CONSUMABLES

SB 84

Sen. Stuart Adams

This legislation exempts from sales and use taxes, purchases of short-term lodging consumables by those who provide short-term lodging. Short-term lodging consumables are defined as tangible personal property purchased by a short-term lodging company that is intended to be consumed by the short-term lodging guest and is included in the purchase price of the short term lodging. Now you can feel a little less guilty about taking home the hotel pen and shampoo since the hotel no longer has to pay sales tax on them. However, the exemption does not apply to hotel towels, so you should still feel guilty if you take those home.

Amends: 59-12-102, 59-12-102 and 59-12-104

Effective Date: July 1, 2013

GOVERNMENT RECORDS AMENDMENTS

SB 94

Sen. Curtis Bramble

Provides for an accessible e-mail repository for state legislators, adds a citizen member to the state records committee and provides that initiative and referendum election packets are public information.

Enacts: 63G-2-208

Amends: 20A-7-206 and 63G-2-301

WHISTLEBLOWER AMENDMENTS

SB 95

Sen. Stuart Reid

This bill modifies grievance procedure provisions and the Utah Protection of Public Employees Act to address protections for employees who report certain wasteful or wrongful actions (as defined by the bill).

The bill at present is intended to apply only to state government agencies, not to local governments or employees of local governments. The language appears to impose that limitation. As a result, the protections it provides to employees of State agencies should not be considered applicable to employees of local entities. The bill is discussed here because it creates both new procedures and new definitions that could be relied on by employees who want to claim whistleblower protections. A number of attorneys have raised significant concerns about the impact of the protections in this bill on the ability of government agencies to discipline or terminate employees. Review the new definitions especially and consider the strength of the exception provided for local governmental entities to determine whether changes need to be made in future.

Amends: 67-19a-101, 67-19a-202, 67-19a-301, 67-19a-302, 67-19a-303, 67-21-2, 67-21-3, 67-21-4, 67-21-5, 67-21-6 and 67-21-9

Enacts: 67-19a-402.5, 67-21-3.5, 67-21-3.6, 67-21-3.7 and 67-21-10

Utah Code Sections Affected by Coordination Clause: 67-21-3.5

PROPELLING (DISGUSTING) BODILY SUBSTANCES

SB 97

Sen. Jerry Stevenson

This appetizing amendment simply expands the list of “bodily substances” to include vomit and infectious materials.

Amends: 76-5-102.6

PROPELLING A BODILY SUBSTANCE REVISIONS

SB 98

Sen. Jerry Stevenson

The existing statute, amended by SB 97, protects law enforcement from having these substances propelled at them. This bill protects the general public from the same conduct. If one intentionally propels such a substance, it is a class B misdemeanor. However, if the actor knows he or she is HIV positive or has hepatitis C, or if the substance hits the face or an open wound, it is a class A misdemeanor.

Amends: 76-5-102.9

DIVISION OF WATER RIGHTS REVISION

SB 101

Sen. Margaret Dayton

Yes, this is the third bill with this title. (See SB 130 and HB 29.) Again, the notice procedures and timing of filing for changes of use, points of diversion, etc. are further delineated. The bill authorizes Legislative Research and General Counsel to coordinate the legislation. I recommend you wait for the book – The movie is a mess!

Amends: 73-3-10, 73-3-18, 73-3-20, 73-5-13 and 73-5-13

VULNERABLE USERS OF THE HIGHWAYS AMENDMENTS

SB 104

Sen. Todd Weiler

This bill is designed to protect vulnerable users of the highways. “Vulnerable Users” are defined as:

- a pedestrian, including a person engaged in work upon a highway or upon utilities facilities along a highway or providing emergency services within the right-of-way of a highway;
- a person riding an animal; or
- a person operating any of the following on a highway:
 - a farm tractor or implement of husbandry without an enclosed shell, a skateboard, roller skates, in-line skates, a bicycle, an electric-assisted bicycle, an electric personal assistive mobility device, a moped, a motor-driven cycle, a motorized scooter, a motorcycle, or a manual wheelchair.

The bill provides that an operator of a motor vehicle may not knowingly, intentionally, or recklessly operate a motor vehicle within three feet of a vulnerable user, distract or attempt to distract a vulnerable user for the purpose of causing violence or injury to the vulnerable user, or force or attempt to force a vulnerable user off the roadway for a purpose unrelated to public safety.

A violation is a class C misdemeanor, unless the violation results in bodily injury to the vulnerable user, in which case the violation is a class B misdemeanor.

Amends: 41-6a-706.5.

BOARD OF PARDONS AND PAROLE REVISIONS

SB 105

Sen. Daniel Thatcher

UCA 76-8-316 already provides that, if done with intent to impede, retaliate, interfere or intimidate, it is a third degree felony to threaten to kidnap, assault, or murder a judge or member of the parole board, and it is a second degree felony to actually commit an assault, and a first degree felony for any aggravated assault. This bill now adds a definition for a “family member” of the judge or parole board member, and includes those family members as the protected class in each section.

Additionally, the bill adds a new section (5) which states it is a first degree felony to attempt to murder a judge or parole board member, or their family member, with intent to impede, retaliate, interfere, or intimidate.

Amends: 76-8-316

PUBLIC SHOOTING RANGES

SB 107

Sen. Allen Christensen

This bill started out life as an attempt to open all shooting ranges that are owned or leased by a public entity to use by the general public. Sen. Christensen listened to concerns raised by a number of groups, including the National Guard and law enforcement and worked with those groups to solve their concerns.

In its final form, the bill provides that a shooting range, whether indoor or outdoor, that was constructed with public funds and that is operated or controlled by the state, an institution of higher education or a political subdivision, shall, **unless specifically exempted in 47-3-305**, be made available as provided in the bill for use by any group. The bill imposes requirements on groups which want to use such shooting ranges, including fees, qualified supervision, safety standards and liability coverage. The ranges need not be open for individual use unless otherwise operated as a public range.

So far as law enforcement and most cities and counties are concerned, the exemptions in section 305 are more important than is the general provision. Those exemptions include:

- shooting ranges that are otherwise open to the public;
- shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;
- the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport; and
- **ranges owned, operated, or currently leased as of March 26, 2013 by a state or local public safety agency.**

With the above exemptions, most shooting ranges **currently** owned by counties and cities are exempt from the public use provisions of this legislation. The language of 47-3-305(1)(d), however, covers only public safety ranges in existence as of March 26, 2013. It would appear that any public safety range opened after that date will have to accommodate use by shooting groups. Law

enforcement agencies will have to be cognizant of that provision when deciding whether to continue to use an existing range or build a new, “all the bells and whistles” range.

Ranges owned or managed by school districts and by institutions of higher learning are not exempt so those entities and the attorneys representing them will have to familiarize themselves with the bill and take appropriate action.

Enacts: 24 47-3-101, 47-3-301, 47-3-302, 47-3-303, 47-3-304 and 47-3-305

Renumbers and Amends: 47-3-102, 47-3-201 and 47-3-202

Effective Date: March 26, 2013

ELECTRONIC FILING OF TRAFFIC CITATIONS AND ACCIDENT REPORTS

SB 111

Sen. Lyle Hillyard

Provides:

A peace officer who investigates a motor vehicle accident shall file an electronic copy of the report with DPS within 10 days of completing the investigation. Filing the report on paper is no longer an option.

Provides that a peace officer or public official who issues a citation pursuant to section 77-7-18 (Citation on Misdemeanor or Infraction Charge) shall give the citation to the cited person and shall, within five days, electronically file the data from the citation with the court specified in the citation. The data transmission shall be accomplished via the courts’ electronic filing interface. A nonconforming filing is not effective.

In addition to the currently-required data on a citation stating the “on or before” court appearance date and time, the bill provides for alternative language on the citation stating the court will notify the person of the time to appear.

The officer certification language above the officer signature line is deleted in lieu of the bill’s provision that, by electronically filing the data with the court, the peace officer or public official certifies that: the citation or information, including the summons and complaint, was served upon the defendant in accordance with law; the defendant committed the offense(s) set forth in the served document(s); and the court to which the defendant was directed to appear is the proper court pursuant to section 77-7-21.

Amends: 41-6a-402 and 77-7-20

Effective Date: July 1, 2013

TARGET SHOOTING AND WILDFIRE REGULATIONS

SB 120

Sen. Margaret Dayton

This bill is in response to the multiple wild land fires that were started last summer by recreational shooters.

The bill provides that, upon a finding by the State Forester that the conditions in a specified area are “extremely hazardous,” the forester shall close those areas to any forms of use by the public, or to limit public use. The closure or limitation:

- shall include open fires, and may include restrictions and prohibitions on:
- smoking;
- the use of vehicles or equipment;
- welding, cutting, or grinding of metals;
- fireworks;
- explosives; or
- the use of firearms for target shooting.

Any restriction or closure relating to firearms use shall be:

- done with support of the county sheriff(s) of the affected county or counties;
- shall undergo a formal review by the State Forester and County Sheriff every 14 days; and
- may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.

The State Forester and County Sheriff shall

- agree to the terms of any restriction or closure relating to firearms use;
- reduce the agreement to writing; and
- sign the agreement.

Those steps are to be repeated at each 14 day review and at the termination of the restriction or closure.

Amends: 65A-8-212

RUNAWAY VEHICLE RAMP REQUIREMENTS

SB 123

Sen. Kevin Van Tassell

This bill prohibits a person from using a runaway vehicle ramp unless the person is in an emergency situation requiring the use of the ramp to stop the person’s vehicle. The bill also provides that a person may not stop, stand, or park a vehicle on a runaway vehicle ramp or in the pathway of the runaway vehicle ramp.

Enacts: 41-6a-717

SALES AND USE TAX EXEMPTION FOR DATABASE ACCESS

SB 124

Sen. Wayne Harper

This bill creates a new sales tax exemption for accessing a “database.” It excludes from the exception digital audio work and digital books. The new exemption reads:

“(75) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(I) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book.”

Curiously, it does not define “database.” It has a local fiscal note of \$160,0000 per year. Based on the undefined “database,” one should expect the fiscal impact to increase over the years as taxpayers take advantage of the poorly defined exemption.

Amends: 59-12-102, (Superseded 07/01/14), 59-12-102 (Effective 07/01/14) and 59-12-104

Effective date: July 1, 2014.

DISTRICT COURT JUDGE AMENDMENTS

SB 125

Sen. Kevin Van Tassell

JUVENILE COURT JUDGE AMENDMENTS

SB 127

Sen. Kevin Van Tassell

The Eighth Judicial District (Daggett, Duchesne and Uintah Counties) gets one additional District Court Judge and one additional Juvenile Court Judge. Start brushing up your resume.

Amends: 78A-1-103 and 78A-1-104

OFFICE OF STATE DEBT COLLECTION - ADMINISTRATIVE GARNISHMENT ORDER

SB 129

Sen. Lyle Hillyard

This bill allows the State Office of Debt Collection to administratively issue a writ of garnishment to collect restitution owed to a victim in a criminal case. Rules for the garnishment follow the Rules of Civil Procedure. A debtor’s wages are included in the items that may be garnished, up to a maximum of 25 per cent of the debtor’s disposable earnings.

Enacts: 63A-3-507

ASSAULT AMENDMENTS

[SB 131](#)

Sen. Daniel Thatcher

This bill makes a helpful progression of penalties for assault against peace officers and military service members in Section 76-5-102.4. Currently, it is a Class A misdemeanor to assault a peace officer, and upon a second conviction of that section it becomes a third degree felony. That sort of remains, but the structure is a bit different.

Now:

- Under subsection (2), a first offense simple assault against the peace officer or military member remains a Class A misdemeanor.
- Under subsection (3), any offense committed after there is a prior Class A misdemeanor or felony conviction in place OR the person causes substantial bodily injury, is a third degree felony.
- Under subsection (4), if the offense involves a dangerous weapon or other means or force likely to produce death or serious bodily injury, the person is guilty of a second degree felony.

PRACTICE NOTE: If the first offense under this section (Class A) is reduced by plea agreement to a Class B, this new language would make the following offense under this section (assuming simple assault) ineligible for enhancement.

Amends: 76-8-316

MOTOR VEHICLE REGISTRATION ENFORCEMENT AMENDMENTS

[SB 137](#)

Sen. Daniel Thatcher

Prohibits a local highway authority from enacting an ordinance, regulation, rule, fee, or criminal or civil fine pertaining to a registration violation or a registration decal that conflicts with, or is more stringent than the registration requirements under Title 41, Motor Vehicles.

Amends: 41-6a-208.

SERVICE AREA BOARD OF TRUSTEES

[SB 140](#)

Sen. Todd Weiler

This bill makes changes to statutes relating to both local district and service area formation and governance. It modifies the process for initiating the creation of a local district by modifying the scope of a resolution to create a district. It authorizes the adopting of a resolution when only a portion of the county's unincorporated area is proposed to be covered by the district.

The language in 17B-1-203(1)(d) states that a district may be created by:

(d) a resolution proposing the creation of a local district, adopted by the legislative body of each county whose unincorporated area, whether in whole or in part, includes and each municipality whose boundaries include any of the proposed local district;

The bill further clarifies that an election to approve the creation of the district is not necessary when:

(d) a resolution [was] adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed local district includes [~~a majority of~~] the unincorporated area, whether in whole or in part, of one or more counties;

Finally, the bill also enacts sections defining the membership of and appointment of the board of trustees of a service area if:

- 1) The service area was created on or after May 14, 2013; and
- 2) The service area was created to provide fire protection, paramedic, and emergency services.

Amends: 17B-1-203; 17B-1-214 and 17B-2a-905

COUNTY ATTORNEY CHAPTER RECODIFICATION

SB 145

Sen. Todd Weiler

Repeals, reenacts, and recodifies Chapter 17-18 regarding the powers and duties of county and district attorneys and reorganizes the chapter without adding any substantive changes, except for provisions regarding the ethical responsibilities for both civil and prosecution functions.

Amends: 4-2-11, 17-16-1, 17-16-2.5, 19-5-115, 19-6-113, 20A-1-509.2, 35A-1-501, 39-1-50, 62A-3-309, 62A-4a-405, 65A-3-3, 67-5-1, 77-22a-1, 77-22b-1, 77-23a-10, 78A-6-602 and 78A-6-1002

Enacts: 17-18a-101, 17-18a-102, 17-18a-201, 17-18a-202, 17-18a-203, 17-18a-204, 17-18a-301, 17-18a-302, 17-18a-401, 17-18a-402, 17-18a-403, 17-18a-404, 17-18a-405, 17-18a-501, 17-18a-502, 17-18a-503, 17-18a-504, 17-18a-505, 17-18a-601, 17-18a-602, 17-18a-603, 17-18a-604, 17-18a-605, 17-18a-701, 17-18a-702, 17-18a-703, 17-18a-801, 17-18a-802 and 17-18a-803

Repeals: 17-18-1, 17-18-1.5, 17-18-1.6, 17-18-1.7, 17-18-1.9, 17-18-2, 17-18-4 and 17-18-5

DRIVING UNDER THE INFLUENCE AMENDMENTS

SB 146

Sen. Scott Jenkins

This bill establishes the minimum number of consecutive hours that a court shall require a person to participate in home confinement if the court orders the use of electronic monitoring for a first, second, or felony DUI. The minimum number of consecutive hours are 48, 240, and 1,500, respectively. The bill also provides that where there is evidence a person convicted of DUI had a BAC of .16 or higher, the court may order the imposition of an ankle attached continuous

transdermal alcohol monitoring device as a condition of probation. All this is in addition to the currently-available orders of installing an ignition interlock device or home confinement that a court has in BAC of .16 or greater cases.

Amends: 41-6a-505

LOCAL GOVERNMENT DEVELOPMENT AMENDMENTS

SB 153

Sen. Stuart Adams

This was a Land Use Task Force bill that makes changes to several portions of the Land Use Management Act for both counties and cities.

- It repeals the provisions concerning elderly residential facilities as they were inconsistent with federal law and allows entities to adopt their own regulations as long as they are consistent with the federal and state Fair Housing Acts.
- It limits the ability of cities and counties to hold warranty bonds for longer than one (1) year on infrastructure improvements unless the entity can show good cause, and also requires that the entity establish development and inspection standards so that developers know to what standard they will be held for the improvements.
- It adds a definition of “suspect soil” as that term is used in areas of the new language; and
- It also requires that an exaction made for a 3rd party entity actually be transferred to the entity for which it was exacted.

Amends: 10-9a-103, 10-9a-104, 10-9a-508, 10-9a-520, 17-27a-103, 17-27a-104, 17-27a-507 and 17-27a-519

Repeals &

Reenacts: 10-9a-516, 10-9a-604.5, 17-27a-515, 17-27a-604.5 and 17B-1-119

Repeals: 10-9a-517, 10-9a-518, 10-9a-519, 17-27a-516, 17-27a-517 and 17-27a-518

JAIL RELEASE AMENDMENTS

SB 156

Sen. Stuart Adams

This bill clarifies and makes the bail statute consistent with the language of the Cohabitant Abuse Procedures Act. It eliminates the old language of “Criminal Protective Order,” which was used for releases made by the jail, and adds the language “Jail Release Agreement,” which is the new language describing the release a jail can make in a domestic violence case. This clarifies for jails that if a person is released on a Jail Release Agreement and is subsequently arrested for violating that same Jail Release Agreement, that person may not be released again until he or she appears in court.

Amends: 77-20-1 (3)

MUNICIPAL GENERAL FUND AMENDMENTS

SB 158

Sen. Deidre Henderson

Increases the cap on accumulated fund balances in municipal general funds from 18% to 25%.

Amends: 10-6-116

PATRONIZING A PROSTITUTE AMENDMENTS

SB 160

Sen. Jerry Stevenson

While this amendment makes prostitution an “equal opportunity crime” by making it gender neutral, the real objective is to enhance subsequent offenses to class A misdemeanors. This brings it in line with the statutory scheme of enhancements for subsequent convictions for sexual solicitation.

Amends: 76-10-1303

RESTITUTION AMENDMENTS

SB 161

Sen. Curtis Bramble

This bill makes some improvements to the way restitution is collected for victims. It provides the following:

- requires that state tax refunds owed to Defendants be applied to restitution owed;
- requires a Defendant to complete a financial declaration form created by the Judicial Council; and
- makes it a Class B misdemeanor for a Defendant to make a false statement in such financial declaration form.

Amends: 59-10-529, 63A-3-501, 63A-3-502, 63A-3-503; 76-3-201, 76-3-201.1, 77-20-4, 77-38a-203, 77-38a-204 and 77-38a-302

IDENTITY FRAUD AMENDMENTS

SB 170

Sen. Daniel Thatcher

Simple. For purposes of the identity fraud crime statute at 76-6-1102, “identifying criminal information” now includes: (m) a photograph or any other realistic likeness.

Amends: 76-6-1102

SALES AND USE TAX EXEMPTION FOR ELECTRONIC FINANCIAL PAYMENT SERVICES

SB 171

Sen. Howard Stephenson

This bill enacts a sales tax exemption on the sale or lease of machinery, equipment, and repair/replacement parts thereof, which have an economic life of 3+ years and are used in the operation of Electronic Financial Payment Services, such as PayPal, Square, Stripe and similar alternative online payment providers. The intent of the bill is to attract these type of companies to set up their processing plants in Utah, knowing they won't have to pay sales tax on equipment and other property used in their operation. This would theoretically result in a higher property tax base.

Amends: 59-12-102 and 59-12-104

USE OF BOND PROCEEDS BY POLITICAL SUBDIVISIONS

SB 172

Sen. John Valentine

Under this bill, proceeds from bonds issued on or after May 14, 2013, may not be used for operation and maintenance expenses more for than one year after the date any of the proceeds are first used for those expenses or for capitalization of interest more than five years after the bonds are issued.

Amends: 11-14-103

LOCAL GOVERNMENT FINANCIAL REPORTING REVISIONS

SB 179

Sen. Curtis S. Bramble

This bill is related to HB 330. The political subdivisions, interlocal organizations and other local entities referenced therein have different financial reporting thresholds than under the prior law. Under the prior law, organizations whose revenues or expenditures exceeded \$350,000 required a CPA to audit its accounts, those who exceeded \$200,000 required a CPA to review its accounts, those who exceeded \$100,000 required a CPA to compile its accounts, and those who did not exceed \$100,000 required a fiscal report on State Auditor forms.

Under the bill, organizations who exceed \$500,000 require a CPA audit, and those who do not exceed \$500,000 require a financial report made per the state auditor's requirements.

Amends: 51-2a-201

PUBLIC UTILITIES AMENDMENTS

SB 180

Sen. Kevin Van Tassell

This bill prohibits, with limited exceptions, a municipality from providing electric utility

services to customers in a new annexation area. The bill also allows a municipality to provide retail electric service outside city boundaries upon agreement of the electric utility and approval by the Public Service Commission.

The bill was a negotiated between cities that have their own electrical service, electrical co-ops, and Rocky Mountain Power. It primarily addresses the issues:

- of how and by whom, electrical services are provided after an annexation;
- “grandfathering” existing extra-territorial service by municipalities; and
- the process of future extra-territorial electrical services.

Amends: 10-8-14

Enacts: 54-3-30, 54-3-31 and 54-4-40

Repeals &

Reenacts: 10-2-421

PROCUREMENT REVISIONS

SB 190

Sen. Scott K. Jenkins

This bill amends and makes corrections, modifications, and re-codifies portions of Title 63G, Chapter 6a, Utah Procurement Code. It preserves current law that allows counties to opt into participation in the code but it does not apply to counties or other political subdivisions directly. It is apparently the intention of the Legislature to make the ethics provision of the code applicable to counties, and to any other political subdivisions, in future. Discussions on the next phase of implementing that intent will begin soon.

Despite the lack of applicability to counties, this bill is included here to provide some warning about what may be anticipated to come down the road at us. The bill defines procedures for procurement, limitations on avoiding procurement rules, and penalties for violations, among other things. It is very long and confusing to read but I encourage all civil side attorneys to do so (and to then report back what you learned to those who have not read it).

Amends: 10-3-1304, 10-3-1305, 10-8-2, 17-16a-4, 17-50-302, 17B-1-106, 31A-31-104, 53-5-708, 53A-2-123, 54-3-28, 62A-16-204, 63C-4-102, 63G-2-201, 63G-2-202, 63G-2-301, 63G-2-305, 63G-2-309, 63G-2-403, 63G-2-406, 63G-6a-103, 63G-6a-105, 63G-6a-106, 63G-6a-107, 63G-6a-108, 63G-6a-201, 63G-6a-203, 63G-6a-204, 63G-6a-302, 63G-6a-303, 63G-6a-305, 63G-6a-402, 63G-6a-403, 63G-6a-404, 63G-6a-406, 63G-6a-407, 63G-6a-408, 63G-6a-503, 63G-6a-602, 63G-6a-603, 63G-6a-604, 63G-6a-605, 63G-6a-606, 63G-6a-607, 63G-6a-608, 63G-6a-609, 63G-6a-610, 63G-6a-611, 63G-6a-612, 63G-6a-702, 63G-6a-703, 63G-6a-704, 63G-6a-705, 63G-6a-707, 63G-6a-708, 63G-6a-709, 63G-6a-710, 63G-6a-711, 63G-6a-802, 63G-6a-804, 63G-6a-805, 63G-6a-902, 63G-6a-903, 63G-6a-904, 63G-6a-1002, 63G-6a-1003, 63G-6a-1102, 63G-6a-1103, 63G-6a-1202, 63G-6a-1203, 63G-6a-1204, 63G-6a-1205, 63G-6a-1206, 63G-6a-1302, 63G-6a-1303, 63G-6a-1502, 63G-6a-1503, 63G-6a-1506, 63G-6a-1603, 63G-6a-1702, 63G-6a-1703, 63G-6a-1704, 63G-6a-1802, 63G-6a-1902,

63G-6a-1903, 63G-6a-1904, 63G-6a-1905, 63G-6a-1910, 63G-6a-1911, 63G-6a-2002, 63G-6a-2003, 63G-6a-2004, 63G-6a-2101, 63G-6a-2102, 63G-6a-2103, 63G-6a-2104, 63G-6a-2105, 63G-6a-2302, 63G-6a-2305, 63G-6a-2306, 63G-6a-2307, 67-16-4, 67-16-5, 67-16-5.3, 67-16-5.6, 67-16-6, 78A-4-106, 63G-6a-505, 63G-6a-709.5, 63G-6a-806, 63G-6a-905, 63G-6a-1208, 63G-6a-1209, 63G-6a-1210, 63G-6a-2304.5 and 63G-6a-2308

Repeals &

Reenacts: 63G-6a-104

Renumber &

Amends: 63G-6a-1204.5

Repeals: 63G-6-506.5, 63G-6a-1908, 63G-6a-2201, 63G-6a-2202, 63G-6a-2303 and 63G-6a-2304

Effective Date: May 1, 2013

ADMINISTRATIVE LAW JUDGE AMENDMENTS

SB 191

Sen. Wayne Harper

Requires the state to create a code of conduct for all administrative law judges employed by the state, including periodic evaluations and performance surveys, minimum performance standards, and a complaint and penalty process. The bill does not apply to local governments.

Enacts: 67-19e-101, 67-19e-102, 67-19e-103, 67-19e-104, 67-19e-105, 67-19e-106, 67-19e-107, 67-19e-108 and 67-19e-109

LICENSE PLATE READER AMENDMENTS

SB 196

Sen. Todd Weiler

Provides that an automatic license plate reader system (ALPRS) may be used:

- by a law enforcement agency to protect public safety, conduct criminal investigations, or insure compliance with local, state and federal laws;
- by a governmental parking enforcement entity to enforce state and local parking laws;
- by a parking enforcement entity for regulating the use of a parking facility;
- to control access to a secured area;
- to collect an electronic toll; or
- to enforce motor carrier laws.

ALPRS-captured data is protected under GRAMA if the captured plate data is maintained by a governmental agency. ALPRS-captured data may not be shared for any purpose besides those described above. ALPRS-captured data may not be preserved for more than 30 days by a private entity or nine months by a governmental entity except, pursuant to a preservation request under section 41-6a-2005, a disclosure order pursuant to section 41-6a-2005(2), or a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant. ALPRS-captured data may only be disclosed in accordance with GRAMA, pursuant to a disclosure order under section 41-6a-2005(2), or

pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

A person or governmental entity authorized to use an ALPRS may not sell captured plate data for any purpose and may not share that data for any purpose not authorized under section 41-6a-2003(2). However, a governmental entity may preserve and disclose aggregate ALPRS-captured data for planning and statistical purposes if the information identifying a specific license plate is not preserved or disclosed. Section 41-6a-2005 describes how to make a preservation request.

Violation of this law is a class B misdemeanor.

Amends: 63G-2-305.

Enacts: 41-6a-2001, 41-6a-2002, 41-6a-2003, 41-6a-2004, 41-6a-2005 and 41-6a-2006.

LOCAL AND SPECIAL SERVICE DISTRICT AMENDMENTS

SB 200

Sen. Jerry Stevenson

There are several amendments in this bill.

1. An amendment to the procurement act to allow for design-build projects of over a million dollars;
2. Prohibits the recreation of local district for two years after the dissolution of a local district if the new district provides the same or similar services and is in the same or similar location;
3. Mandates the dissolution of local districts that is not engaging in certain enumerated functions (taxing, providing services, etc.) and also requires a certification from each existing local district by May 14, 2013 that they are engaging in the required activities;
4. Clarifies that the term of office for someone appointed to a water conservancy district begins the date of senate confirmation;
5. Clarifies that a board member may continue to serve after the expiration of the term until a replacement is installed;
6. Allows the County Clerk to consolidate polling places for local district elections;
7. Clarifies that if the district treats board members as “employees” for tax purposes, they are not violating the prohibition against board members also being employed by the district, and adds a provision that states that the employer portion of payroll taxes paid to a board member as if an employee, does not count as “compensation”;
8. A provision that states if a board is comprised of five (5) or fewer members, they cannot adopt by-laws which require a 2/3 majority vote on action items, except the disposal of real property; and
9. Adds provisions dealing with employees or workers of a Transit District and some other minor changes.

Amends: 11-39-107, 17B-1-202, 17B-1-217, 17B-1-303, 17B-1-304, 17B-1-306, 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-639, 17B-1-640, 17B-2a-813, 17D-1-201, 20A-1-512 and 62A-5-103.5

JUDICIARY AMENDMENTS

SB 204

Sen. Lyle Hillyard

This is a large bill, but it is really a cleanup bill run by the courts to clear up some cross-references and some basic language in various parts of the code. However, one section was included as a necessary clarification of penalties for driving without registration.

That is included here:

- (1) (a) A violation of Subsection 41-1a-202(3), related to registration of vehicles after establishing residency, is a class B misdemeanor and, except as provided in Subsection (1)(b), has a minimum fine of \$1,000.
(b) A court may not dismiss an action brought for a violation of Subsection 41-1a-202 (3) merely because the defendant has obtained the appropriate registration subsequent to violating the section. The court may, however, reduce the fine to \$200 if the violator presents evidence at the time of the hearing that:
(I) the vehicle is currently registered properly; and
(ii) the violation has not existed for more than one year.
(2) A court may require proof of proper motor vehicle registration as part of any sentence imposed under this section.

Amends: 41-1A-1303, 51-9-108, 75-3-718, 77-32-202, 77-36-2.5, 77-40-107, 78A-2-220, 78A-2-301.5 and 78-6-1109.

REDEVELOPMENT AGENCY AMENDMENTS

SB 211

Sen. Jerry Stevenson

This is a must read bill for practitioners who represent or deal with RDA issues. For project area budgets approved after 30 March 2013, the budget must identify the maximum cumulative dollar amount of tax increment the agency may receive from the project area. The bill also amends tax increment provisions applicable to a pre-July 1, 1993, project area plan. Additionally, the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased taxes from the agency by adjustment of a tax rate used to calculate tax increment prior to 2013.

Amends: 17C-1-402, 17C-1-403, 17C-1-407, 17C-2-201 and 17C-3-201

PEACE OFFICER STANDARDS AND TRAINING CERTIFICATION AGE REQUIREMENT

SB 215

Sen. Lyle Hillyard

53-6-203(1)(b) is amended regarding the minimum age of a special function officer and a correctional officer as follows:

- (1) Before being accepted for admission to the training programs conducted by a certified academy,

and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

(b) be at least 21 years old at the time of ~~[appointment as a peace officer]~~ certification as a special function officer or correctional officer;

This change will allow applicants to be admitted to the basic training course before age 21 but they may not receive their certification as a special function or correctional officer until their 21st birthday.

Amends: 53-6-203

ASSESSMENT AREA ACT AMENDMENTS

SB 221

Sen. Kevin Van Tassell

Provides authority for counties, local districts, local service districts, and military installation development authorities to provide an energy efficiency upgrade or a renewable energy system, issue bonds for them, and requires that if an assessment area is designated for them, it must be a voluntary assessment area. An energy efficiency upgrade is defined as an improvement that is permanently affixed to commercial or industrial real property that is designated to reduce energy consumption. A renewable energy system is defined as a product, a system, a device, or an interacting group of devices that is permanently affixed to commercial or industrial real property and produces energy from renewable sources. Commercial or industrial real property is broadly defined and includes, *inter alia*, real property used for governmental purposes.

Enacts: 11-42-209 and 17-50-335

Amends: 11-13-218, 11-42-202, 11-42-408, 17D-1-201, 11-42-102, 11-42-301, 11-42-411, 26-8a-102, 11-42-103, 11-42-405, 17B-1-202 and 63H-1-201

PENALTIES FOR SPECIFIED JUVENILE OFFENSE

SB 228

Sen. Brian Shiozawa

This is a Sentencing Commission bill which conforms state law to decisions of the United States Supreme Court regarding sentencing of juveniles. 76-5-202 Aggravated Murder is amended in sub-section (3)(e) to provide that if the defendant was younger than 18 years of age at the time of the offense Aggravated Murder is a non capital 1st degree felony punishable as provided in 76-3-207.7.

Life without parole is eliminated if the defendant was younger than 18 years of age at the time of the offense and is convicted of Child Kidnaping 76-5-301.1, Aggravated Kidnaping 76-5-302, Rape 76-5-402, Rape of a Child 76-5-402.1, Object Rape 76-5-402.2, Object Rape of a Child 76-5-402.3, Forcible Sodomy 76-5-403, Sodomy on a Child 76-5-403.1, Aggravated Sexual Abuse of a Child 76-5-404.1, or Aggravated Sexual Assault 76-5-405.

Amends: 76-5-202, 76-5-301.1, 76-5-302, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1 and 76-5-405

APPELLATE BOND FOR STATE ENTITIES

[SB 229](#)

Sen. Curtis Bramble

The State, its agencies and political subdivisions are generally exempt from having to post a bond in a civil action in order to appeal a judgment. This bill provides that municipalities must post a bond if the judgment exceeds \$5,000,000.00. (See also SJR 14 requiring a similar amendment in Rule 62, URCP.)

Repeals and Reenacts: 78B-5-805

Effective Date: March 21, 2013 (upon being signed by the governor)

REQUEST FOR EMERGENCY MEDICAL ASSISTANCE AMENDMENTS

[SB 233](#)

Sen. Curtis Bramble

The basic policy behind this bill is that if a person is in the company of another who appears to be in need of medical care do to the consumption of alcohol, the person should not be afraid to call the police for fear of being charged with illegal possession of alcohol, intoxication or furnishing alcohol to a minor. Obviously the higher priority is to summon medical help. The long title of the bill (which does not have the force of law) says that a person who summons help is “immune from prosecution under specified circumstances.” This is not actually the case when one carefully examines the elements of the new statute, but the policy considerations are certainly there.

The bill enacts a new section 32B-4-423. The provisions actually state that “a law enforcement officer may not cite or arrest a person solely because of a person’s violation of a provision under sub-section 2 if the officer came into contact with the person because...” the person requested emergency medical assistance and the person provided the officer identifying information as requested, remained at the location until emergency personnel arrived and cooperated with medical assistance. This “immunity” from arrest or citation applies only to unlawful furnishing alcohol to a minor, possession or consumption by a minor, or intoxication.

Clearly your prosecutorial mind has already concluded that although the officer could not cite or arrest, the prosecutor could file an information on any of those violations. Nonetheless if the person was that cooperative it is unlikely that the prosecutor would want to file under those circumstances. This issue was previously addressed by the sentencing considerations which were enumerated in Section 32B-4-210. That section has been repealed.

There is also a subsection which states that an officer who does not cite or arrest, acting in good faith under this sub-section, is not civilly liable. The bill does raise some questions about exactly what the officer is to do with a person who is too intoxicated to be left safely alone. Presumably the person can still be detained until (s)he can be placed in the care of a responsible individual.

Enacts: 32B-4-423

Repeals: 32B-4-210

PROPERTY TAX AMENDMENTS

SB 238

Sen. Curtis Bramble

This bill does three things.

1. It modifies the personal property exemption for noncapitalized property under \$1,000 by not requiring the taxpayer to actually deduct the property on their federal income tax return. This should have minimal impact.
2. It allows the county legislative body to reduce or refund taxes owing on property without a timely filed appeal under the following conditions:
 - a. the Commission or board of equalization reduced the value;
 - b. the assessed value exceeds the reduced value by five times; and
 - c. the reduction or refund is based on a determination of fair market value.(This portion of the statute is likely unconstitutional since it grants authority to the county legislative body that is assigned by the Utah Constitution to the board of equalization. See Utah Const. art. XIII, § 7.)
3. The bill modifies the “non-profit” definition for the religious, charitable, or educational use exemption to include disregarded entities for federal income tax purposes whose income is passed through to the controlling non-profit entity.

Amends: 59-2-108, 59-2-301.4, 59-2-1002 and 59-2-1101

Effective date: January 1, 2014

VOLUNTEER WORKERS AMENDMENTS

SB 246

Sen. Scott Jenkins

Amends governmental immunity to provide volunteer status and indemnification for a business or non-profit organization which provides or facilitates providing volunteers to a government agency.

Amends: 63G-8-102, 63G-8-201, 67-20-2 and 67-20-3

AMENDMENTS TO REVENUE AND TAXATION

SB 247

Sen. Wayne Harper

Repeals the Multistate Tax Compact (“MTC”) and reenacts the MTC, excluding certain provisions from the repealed MTC. This bill is in response to a California case, *Gillette v. Franchise Tax Bd.*, Cal. Ct. of App. No. A130803, July 24, 2012. In that case, the Court held that a taxpayer could elect to use the apportionment formula for corporate income tax in the MTC, notwithstanding state statute provided for a different formula, because the state (California) had adopted the MTC. The Court held that a state could not unilaterally amend portions of the MTC by state statute. The state would have to repeal the MTC (as it related to the state) in order for the state statute providing for a different apportionment to apply.

Utah enjoys substantial benefits from the MTC, including multi-state audits that bring in \$1.5 million - \$3.5 million per year to the state coffers, which Utah would not receive if it repealed the MTC entirely. For the state to continue to receive these benefits of membership in the MTC, but to allow it to keep its own statutory apportionment formulas, the MTC had to be repealed, and then reenacted, with the offending provisions relating to apportionment formulas being excluded.

The bill also has a sunset provision, providing that the repeal and reenactment of the MTC will expire in 2014 unless renewed. This allows the legislature to review the status of the *Gillette* decision, which is not yet resolved, to see if the bill is still necessary next year.

Amends: 59-1-809 and 63I-1-259
Enacts: 59-1-801.5
Repeals: 59-1-801

SALVAGE AND NONREPAIRABLE VEHICLE AMENDMENTS

SB 249

Sen. Stephen Urquhart

This bill makes numerous amendments regarding salvage and nonrepairable vehicles:

1. Any vehicle owner who is not a manufacturer, dealer, motor vehicle auction, or consignor to a motor vehicle auction who conceals, removes, destroys, or alters a disclosure statement or a certificate branded under any applicable section of Title 41 is guilty of a class A misdemeanor. If the offender has been convicted two or more times of that conduct the new offense is a third degree felony.
2. A vehicle that has been issued a nonrepairable certificate may not be registered.
3. Establishes a private cause of action for violation of section 41-1a-1005.3 (resale of salvage vehicles).
4. Provides that motor vehicle auction operators shall use the GenTax system to apply for salvage certificates once that system has been implemented.
5. Provides that a vehicle sold at or through an auction to an out-of-state purchaser may not be certificated in Utah until the vehicle has been certificated out-of-state.
6. Provides that the Motor Vehicle Division shall include a link to the National Motor Vehicle Title Information System on its website.
7. Vehicles may not be sold to buyers for whom the division has provided written notice of their prohibited-buyer status.
8. An operator of a motor vehicle auction, a dealer, or a consignor, may not sell a vehicle with a nonrepairable or salvage certificate to prohibited buyers.
9. Unlicensed in-state purchasers:
 - a. may not purchase more than five salvage vehicles with a nonrepairable or salvage certificate in any 12-month period;
 - b. may not sell or trade more than two vehicles in any 12-month period with salvage certificate without meeting certain requirements;
 - c. may not offer for sale, sell, or exchange a vehicle with a nonrepairable certificate to an unlicensed person.

Amends: 41-1a-202, 41-1a-1004, 41-1a-1008 and 41-3-201.
Enacts: 41-1a-1008.5

SALES AND USE TAX EXEMPTION FOR SALES OF A FUEL CELL

[SB 250](#)

Sen. Ralph Okerlund

Exempts from sales and use taxes, sales of a fuel cell which, for those who are curious, is “a device in which the energy of a reaction between a fuel and an oxidant is converted directly and continuously into electrical energy.”

Amends: 59-12-104

PROPERTY TAX REVISIONS

[SB 269](#)

Sen. John Valentine

This bill allows a taxing entity to levy a property tax that exceeds the maximum levy allowed by law if its tax rate is at or equal to the certified rate. It effectively said that before so I am not sure of the purpose for the amendment.

The amendment reads:

- (3) ~~[(a) Subject to the provisions of Subsections (1) and (2), beginning January 1, 1995, a]~~
Notwithstanding Subsection (1) or (2), a taxing entity may impose a tax rate [in excess of]
that exceeds the maximum levy permitted by law if the tax rate [established by] the taxing
entity [for the current year generates revenues for the taxing entity in an amount that is less
than the revenues that would be generated by the taxing entity under] imposes is at or below
the taxing entity's certified tax rate established in Section 59-2-924.
~~[(b) A taxing entity meeting the requirements of Subsection (3)(a) may impose a tax rate that~~
~~does not exceed the certified rate established in Section 59-2-924.]~~

Amends: 59-2-914

CONTROLLED SUBSTANCE AMENDMENTS

[SB 270](#)

Sen. Evan Vickers

Similar to HB 52, this bill adds new chemical structures to the Listed Substances section at 58-37-4.2. Additionally, this bill adds “(viii) all forms of Tramadol” to Schedule V of the Utah Controlled Substances definitions at 58-37-4.

Amends: 58-37-4 & 58-37-4.2

AVAILABILITY OF PUBLIC INFORMATION AMENDMENTS

[SB 283](#)

Sen. Deidre Henderson

This bill is a further effort to increase access to information and to push transparency of some

government functions. Specifically, it moves the Utah Transparency Advisory Board from the Division of Finance to the Department of Administrative Services and modifies the board's membership. It also expands the duties of the board to include responsibility for developing recommendations concerning making public information more accessible through a website and provides principles to guide the board in fulfilling its new duties. It also directs the Department of Administrative Services to implement board recommendations under certain circumstances.

Amends: 63A-3-403

INVOLUNTARY CIVIL COMMITMENT INFORMATION AMENDMENTS

SB 285

Sen. Daniel Thatcher

Defendants who, in a criminal proceeding, have been found not competent to stand trial for a violent offense are often voluntarily or involuntarily committed in civil commitment proceedings. Those persons are then placed on a national database and are restricted from possessing or acquiring firearms. The problem was that Utah law did not require collection of the necessary information to place those persons on the national database. This bill fixes that so that the court in the involuntary commitment proceeding must collect the person's name, date of birth and social security number. The bill also provides that this information may be shared by Utah with other states and the federal government.

Amends: 62A-15-631

JOINT RULES RESOLUTION ON REQUESTS FOR LEGISLATION

SJR 3

Sen. Aaron Osmond

Certain legislative rules govern requests for legislation. Sometimes prosecutors and LELC make requests to representatives and senators for new legislation. In turn, it is good to be aware of any changes to the rules for legislation. New language states all requests for legislation will, in addition to naming the chief sponsor or co-sponsor:

- (iii) (A) provide specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make;
(B) identify the specific situation or concern that the legislator intends the legislation to address; or
(C) identify the general subject area within which the proposed legislation is likely to fall.

Similarly, a bill may not be given priority status without the same information being included.

PRACTICE NOTE: If seeking proposed changes to current law, bullet points which address these will be necessary, in addition to the proposed language change itself.

Amends: JR4-21011 and JR4-2-102

JOINT RESOLUTION AMENDING CIVIL PROCEDURE

SJR 14

Sen. Curtis Bramble

Amends the Utah Rules of Civil Procedure to require municipalities to post a bond when appealing a judgment for any amount in excess of \$5,000,000. (See also SB 229 which contains a similar provision.)

Amends: Rule 62, Utah Rules of Civil Procedure

Effective Date: March 12, 2013 (. . . “upon approval by a constitutional two-thirds vote of all members elected to each house.)

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