

RACKETEERING AMENDMENT

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer M. Seelig

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding offenses that constitute racketeering by a pattern of unlawful activity.

Highlighted Provisions:

This bill:

- ▶ adds the offenses of human trafficking, human smuggling, and aggravated human trafficking to the list of offenses that, when conducted as a pattern of unlawful activity, would constitute the offense of racketeering.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-1602, as last amended by Laws of Utah 2011, Chapter 320

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

Section 1. Section **76-10-1602** is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals

30 associated in fact although not a legal entity, and includes illicit as well as licit entities.

31 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
32 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
33 have the same or similar purposes, results, participants, victims, or methods of commission, or
34 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
35 demonstrate continuing unlawful conduct and be related either to each other or to the
36 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
37 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
38 activity as defined by this part shall have occurred within five years of the commission of the
39 next preceding act alleged as part of the pattern.

40 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
41 interest in property, including state, county, and local governmental entities.

42 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
43 command, encourage, or intentionally aid another person to engage in conduct which would
44 constitute any offense described by the following crimes or categories of crimes, or to attempt
45 or conspire to engage in an act which would constitute any of those offenses, regardless of
46 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
47 or a felony:

48 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
49 Recording Practices Act;

50 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
51 Code, Sections 19-1-101 through 19-7-109;

52 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
53 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources
54 Code of Utah, or Section 23-20-4;

55 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title
56 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

57 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal

- 58 Offenses and Procedure Act;
- 59 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
- 60 Land Sales Practices Act;
- 61 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
- 62 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
- 63 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
- 64 Clandestine Drug Lab Act;
- 65 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
- 66 Securities Act;
- 67 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6 Utah
- 68 Procurement Code;
- 69 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 70 (k) a threat of terrorism, Section 76-5-107.3;
- 71 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 72 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 73 (n) human trafficking, human smuggling, or aggravated human trafficking, Sections
- 74 76-5-308, 76-5-309, and 76-5-310;
- 75 [~~n~~] (o) sexual exploitation of a minor, Section 76-5b-201;
- 76 [~~o~~] (p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 77 [~~p~~] (q) causing a catastrophe, Section 76-6-105;
- 78 [~~q~~] (r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 79 [~~r~~] (s) burglary of a vehicle, Section 76-6-204;
- 80 [~~s~~] (t) manufacture or possession of an instrument for burglary or theft, Section
- 81 76-6-205;
- 82 [~~t~~] (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 83 [~~u~~] (v) theft, Section 76-6-404;
- 84 [~~v~~] (w) theft by deception, Section 76-6-405;
- 85 [~~w~~] (x) theft by extortion, Section 76-6-406;

86 [~~(x)~~] (y) receiving stolen property, Section 76-6-408;
87 [~~(y)~~] (z) theft of services, Section 76-6-409;
88 [~~(z)~~] (aa) forgery, Section 76-6-501;
89 [~~(aa)~~] (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5,
90 and 76-6-506.6;
91 [~~(bb)~~] (cc) deceptive business practices, Section 76-6-507;
92 [~~(cc)~~] (dd) bribery or receiving bribe by person in the business of selection, appraisal,
93 or criticism of goods, Section 76-6-508;
94 [~~(dd)~~] (ee) bribery of a labor official, Section 76-6-509;
95 [~~(ee)~~] (ff) defrauding creditors, Section 76-6-511;
96 [~~(ff)~~] (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
97 [~~(gg)~~] (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
98 [~~(hh)~~] (ii) bribery or threat to influence contest, Section 76-6-514;
99 [~~(ii)~~] (jj) making a false credit report, Section 76-6-517;
100 [~~(jj)~~] (kk) criminal simulation, Section 76-6-518;
101 [~~(kk)~~] (ll) criminal usury, Section 76-6-520;
102 [~~(ll)~~] (mm) fraudulent insurance act, Section 76-6-521;
103 [~~(mm)~~] (nn) retail theft, Section 76-6-602;
104 [~~(nn)~~] (oo) computer crimes, Section 76-6-703;
105 [~~(oo)~~] (pp) identity fraud, Section 76-6-1102;
106 [~~(pp)~~] (qq) mortgage fraud, Section 76-6-1203;
107 [~~(qq)~~] (rr) sale of a child, Section 76-7-203;
108 [~~(rr)~~] (ss) bribery to influence official or political actions, Section 76-8-103;
109 [~~(ss)~~] (tt) threats to influence official or political action, Section 76-8-104;
110 [~~(tt)~~] (uu) receiving bribe or bribery by public servant, Section 76-8-105;
111 [~~(uu)~~] (vv) receiving bribe or bribery for endorsement of person as public servant,
112 Section 76-8-106;
113 [~~(vv)~~] (ww) official misconduct, Sections 76-8-201 and 76-8-202;

114 [~~(ww)~~] (xx) obstruction of justice, Section 76-8-306;
115 [~~(xx)~~] (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section
116 76-8-308;
117 [~~(yy)~~] (zz) false or inconsistent material statements, Section 76-8-502;
118 [~~(zz)~~] (aaa) false or inconsistent statements, Section 76-8-503;
119 [~~(aaa)~~] (bbb) written false statements, Section 76-8-504;
120 [~~(bbb)~~] (ccc) tampering with a witness or soliciting or receiving a bribe, Section
121 76-8-508;
122 [~~(ccc)~~] (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
123 [~~(ddd)~~] (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
124 [~~(eee)~~] (fff) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
125 76-8-1205;
126 [~~(fff)~~] (ggg) unemployment insurance fraud, Section 76-8-1301;
127 [~~(ggg)~~] (hhh) intentionally or knowingly causing one animal to fight with another,
128 Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
129 [~~(hhh)~~] (iii) possession, use, or removal of explosives, chemical, or incendiary devices
130 or parts, Section 76-10-306;
131 [~~(iii)~~] (jjj) delivery to common carrier, mailing, or placement on premises of an
132 incendiary device, Section 76-10-307;
133 [~~(jjj)~~] (kkk) possession of a deadly weapon with intent to assault, Section 76-10-507;
134 [~~(kkk)~~] (lll) unlawful marking of pistol or revolver, Section 76-10-521;
135 [~~(lll)~~] (mmm) alteration of number or mark on pistol or revolver, Section 76-10-522;
136 [~~(mmm)~~] (nnn) forging or counterfeiting trademarks, trade name, or trade device,
137 Section 76-10-1002;
138 [~~(nnn)~~] (ooo) selling goods under counterfeited trademark, trade name, or trade
139 devices, Section 76-10-1003;
140 [~~(ooo)~~] (ppp) sales in containers bearing registered trademark of substituted articles,
141 Section 76-10-1004;

142 [~~(ppp)~~] (qqq) selling or dealing with article bearing registered trademark or service
143 mark with intent to defraud, Section 76-10-1006;
144 [~~(qqq)~~] (rrr) gambling, Section 76-10-1102;
145 [~~(rrr)~~] (sss) gambling fraud, Section 76-10-1103;
146 [~~(sss)~~] (ttt) gambling promotion, Section 76-10-1104;
147 [~~(ttt)~~] (uuu) possessing a gambling device or record, Section 76-10-1105;
148 [~~(uuu)~~] (vvv) confidence game, Section 76-10-1109;
149 [~~(vvv)~~] (www) distributing pornographic material, Section 76-10-1204;
150 [~~(www)~~] (xxx) inducing acceptance of pornographic material, Section 76-10-1205;
151 [~~(xxx)~~] (yyy) dealing in harmful material to a minor, Section 76-10-1206;
152 [~~(yyy)~~] (zzz) distribution of pornographic films, Section 76-10-1222;
153 [~~(zzz)~~] (aaaa) indecent public displays, Section 76-10-1228;
154 [~~(aaaa)~~] (bbbb) prostitution, Section 76-10-1302;
155 [~~(bbbb)~~] (cccc) aiding prostitution, Section 76-10-1304;
156 [~~(cccc)~~] (dddd) exploiting prostitution, Section 76-10-1305;
157 [~~(ddd)~~] (eeee) aggravated exploitation of prostitution, Section 76-10-1306;
158 [~~(eeee)~~] (ffff) communications fraud, Section 76-10-1801;
159 [~~(ffff)~~] (gggg) any act prohibited by the criminal provisions of [~~Chapter 10,~~] Part 19,
160 Money Laundering and Currency Transaction Reporting Act;
161 [~~(gggg)~~] (hhhh) vehicle compartment for contraband, Section 76-10-2801;
162 [~~(hhhh)~~] (iiii) any act prohibited by the criminal provisions of the laws governing
163 taxation in this state; and
164 [~~(iiii)~~] (jjjj) any act illegal under the laws of the United States and enumerated in 18
165 U.S.C. Sec. 1961 (1)(B), (C), and (D).