

Calvin R. Musselman proposes the following substitute bill:

Unlawful Presence Criminal Enhancement Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill enhances criminal penalties for a crime committed by an individual who previously has been convicted of a federal unlawful reentry criminal offense.

Highlighted Provisions:

This bill:

- creates an enhancement for a crime committed by an individual who previously has been convicted of a federal unlawful reentry criminal offense.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-3-203.19, Utah Code Annotated 1953

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

Section 1. Section **76-3-203.19** is enacted to read:

76-3-203.19 . Enhancement of an offense committed by an individual previously convicted of a federal unlawful reentry criminal offense.

(1) If the trier of fact finds that an actor committed an offense and has a previous conviction for reentry of a removed alien under 8 U.S.C. Sec. 1326, the actor is:

(a) guilty of:

(i) a class B misdemeanor if the actor is charged with an offense that is designated by law as a class C misdemeanor;

(ii) a class A misdemeanor if the actor is charged with an offense that is designated by law as a class B misdemeanor;

(iii) a third degree felony if the actor is charged with an offense that is designated by

- 31 law as a class A misdemeanor;
- 32 (iv) a second degree felony if the actor is charged with an offense that is designated
- 33 by law as a third degree felony; or
- 34 (v) a first degree felony if the actor is charged with an offense that is designated by
- 35 law as a second degree felony; or
- 36 (b) subject to the penalty described in Subsection (2)(f) if the actor is charged with an
- 37 offense that is designated by law as a first degree felony.
- 38 (2)(a) If an actor is guilty of a class B misdemeanor as described in Subsection (1)(a)(i),
- 39 the court shall impose a mandatory fine of no less than \$750 in addition to any other
- 40 penalty the court may impose for a class B misdemeanor.
- 41 (b) If an actor is guilty of a class A misdemeanor as described in Subsection (1)(a)(ii),
- 42 the court shall impose a mandatory fine of no less than \$1,000 in addition to any
- 43 other penalty the court may impose for a class A misdemeanor.
- 44 (c) If an actor is guilty of a third degree felony as described in Subsection (1)(a)(iii), the
- 45 court shall impose:
- 46 (i) a mandatory fine of no less than \$2,500; and
- 47 (ii) an indeterminate term of imprisonment for no less than one year and no more
- 48 than five years in addition to any other penalty the court may impose for a third
- 49 degree felony.
- 50 (d) If an actor is guilty of a second degree felony as described in Subsection (1)(a)(iv),
- 51 the court shall impose:
- 52 (i) a mandatory fine of no less than \$5,000; and
- 53 (ii) an indeterminate term of imprisonment for no less than two years and no more
- 54 than 15 years in addition to any other penalty the court may impose for a second
- 55 degree felony.
- 56 (e) If an actor is guilty of a first degree felony as described in Subsection (1)(a)(v), the
- 57 court shall impose:
- 58 (i) a mandatory fine of no less than \$7,500; and
- 59 (ii) an indeterminate term of imprisonment that adds four years to the minimum term
- 60 of the applicable sentence in addition to any other penalty the court may impose
- 61 for a first degree felony.
- 62 (f) If an actor is guilty of a first degree felony as described in Subsection (1)(b), the
- 63 court shall impose:
- 64 (i) a mandatory fine of no less than \$10,000; and

65 (ii) an indeterminate term of imprisonment that adds six years to the minimum term
66 of the applicable sentence in addition to any other penalty the court may impose
67 for a first degree felony.

68 (3) Except as otherwise provided by another provision of the Utah Code, the court may
69 suspend the execution of an indeterminate term of imprisonment described in Subsection
70 (2)(c)(ii), (2)(d)(ii), (2)(e)(ii), or (2)(f)(ii) in accordance with Section 77-18-105.

71 (4) The prosecuting attorney, or the grand jury if an indictment is returned, shall include
72 notice in the information or indictment that the offense is subject to an enhancement
73 under this section.

74 Section 2. **Effective Date.**

75 This bill takes effect on May 7, 2025.