

1 **CONTROLLED SUBSTANCE DATABASE - REPORTING**
2 **CONVICTIONS FOR DRIVING UNDER THE**
3 **INFLUENCE OR IMPAIRED DRIVING**

4 2010 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Bradley M. Daw**

7 Senate Sponsor: _____

8
9 **LONG TITLE**

10 **Committee Note:**

11 The Health and Human Services Interim Committee recommended this bill.

12 **General Description:**

13 This bill amends provisions of the Traffic Code and the Utah Controlled Substances
14 Act to provide for notification to a practitioner when a person is convicted of a crime
15 for driving under the influence of, or impaired driving under the influence of, a
16 controlled substance that the practitioner may have prescribed to that person.

17 **Highlighted Provisions:**

18 This bill:

19 ▶ requires a court to report certain information to the Division of Occupational and
20 Professional Licensing (DOPL) when a person is convicted of driving under the
21 influence or of impaired driving, if there is evidence that the person's driving was
22 under the influence of, or impaired by, a prescribed controlled substance;

23 ▶ requires that, when DOPL receives a report described in the preceding paragraph,
24 DOPL must notify each practitioner that may have written a prescription for the
25 controlled substance of the conviction and certain information relating to the
26 conviction; and

27 ▶ makes technical changes.



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **41-6a-502**, as last amended by Laws of Utah 2005, Chapter 91 and renumbered and
35 amended by Laws of Utah 2005, Chapter 2

36 **41-6a-502.5**, as last amended by Laws of Utah 2009, Chapter 201

37 ENACTS:

38 **58-37-7.9**, Utah Code Annotated 1953



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

41 Section 1. Section **41-6a-502** is amended to read:

42 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**
43 **both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**

44 (1) A person may not operate or be in actual physical control of a vehicle within this
45 state if the person:

46 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows
47 that the person has a blood or breath alcohol concentration of .08 grams or greater at the time
48 of the test;

49 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol
50 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

51 (c) has a blood or breath alcohol concentration of .08 grams or greater at the time of
52 operation or actual physical control.

53 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100
54 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of
55 alcohol per 210 liters of breath.

56 (3) A violation of this section includes a violation under a local ordinance similar to
57 this section adopted in compliance with Section 41-6a-510.

58 (4) If there is evidence that a person who is convicted of a violation of this section was

59 driving under the influence, in whole or in part, of a prescribed controlled substance, the court
60 shall send a report to the Division of Occupational and Professional Licensing, created in
61 Section 58-1-103, of:

62 (a) the conviction;

63 (b) the type of controlled substance that contributed to the impairment, if known; and

64 (c) the name of each person who prescribed the controlled substance to the convicted
65 person, if known.

66 Section 2. Section **41-6a-502.5** is amended to read:

67 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions --**
68 **Sentencing requirements.**

69 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of
70 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of
71 impaired driving under this section if:

72 (a) the defendant completes court ordered probation requirements; or

73 (b) (i) the prosecutor agrees as part of a negotiated plea; and

74 (ii) the court finds the plea to be in the interest of justice.

75 (2) A conviction entered under this section is a class B misdemeanor.

76 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
77 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

78 (ii) If the defendant fails to appear before the court and establish successful completion
79 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
80 amended conviction of Section 41-6a-502.

81 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
82 conviction.

83 (b) The court may enter a conviction of impaired driving immediately under
84 Subsection (1)(b).

85 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
86 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
87 degree.

88 (5) (a) The court shall notify the Driver License Division of each conviction entered
89 under this section.

90 (b) If there is evidence that a person who is convicted of a violation of this section was
91 driving while impaired, in whole or in part, by use of a prescribed controlled substance, the
92 court shall send a report to the Division of Occupational and Professional Licensing, created in
93 Section 58-1-103, of:

- 94 (i) the conviction;
- 95 (ii) the type of controlled substance that contributed to the impairment, if known; and
- 96 (iii) the name of each person who prescribed the controlled substance to the convicted
97 person, if known.

98 (6) (a) The provisions in Subsections 41-6a-505(1), (2), and (3) that require a
99 sentencing court to order a convicted person to participate in a screening, an assessment, or an
100 educational series, or obtain substance abuse treatment or do a combination of those things,
101 apply to a conviction entered under this section.

102 (b) The court shall render the same order regarding screening, assessment, an
103 educational series, or substance abuse treatment in connection with a first, second, or
104 subsequent conviction under this section as the court would render in connection with applying
105 respectively, the first, second, or subsequent conviction requirements of Subsection
106 41-6a-505(1), (2), or (3).

107 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
108 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
109 reporting court notifies the Driver License Division that the defendant is participating in or has
110 successfully completed the program of a driving under the influence court.

111 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

- 112 (i) a CDL license holder; or
- 113 (ii) a violation that occurred in a commercial motor vehicle.

114 Section 3. Section **58-37-7.9** is enacted to read:

115 **58-37-7.9. Reporting certain convictions to practitioners.**

116 (1) The definitions in Subsection 58-37-7.5(1) apply to this section.

117 (2) If the division receives a report from a court under Subsection 41-6a-502(4) or
118 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired
119 by, a prescribed controlled substance, the division shall:

- 120 (a) attempt to identify, through the database, each practitioner who may have

121 prescribed the controlled substance to the convicted person; and
122 (b) provide each practitioner identified under Subsection (2)(a) with:
123 (i) a copy of the information provided by the court; and
124 (ii) the information obtained from the database that led the division to determine that
125 the practitioner receiving the information may have prescribed the controlled substance to the
126 convicted person.

127 (3) It is the intent of the Legislature that the information provided under Subsection
128 (2)(b) is provided for the purpose of assisting the practitioner in:

129 (a) discussing the manner in which the controlled substance may impact the convicted
130 person's driving;

131 (b) advising the convicted person on measures that may be taken to avoid adverse
132 impacts of the controlled substance on future driving; and

133 (c) making decisions regarding future prescriptions written for the convicted person.

Legislative Review Note
as of 11-18-09 1:22 PM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 36 - Controlled Substance Database - Reporting Convictions for Driving
Under the Influence or Impaired Driving**

2010 General Session

State of Utah

State Impact

Enactment of this bill will require an appropriation from the Commerce Service Fund of \$4,000 the first year and \$2,500 annually thereafter. Commerce Service Fund spending affects the annual transfer to the General Fund. It is assumed that a monthly electronic notice of convictions from the Courts to the Department of Commerce mentioned in this bill can be handled without additional appropriations to the Courts.

| | <u>FY 2010 Approp.</u> | <u>FY 2011 Approp.</u> | <u>FY 2012 Approp.</u> | <u>FY 2010 Revenue</u> | <u>FY 2011 Revenue</u> | <u>FY 2012 Revenue</u> |
|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| General Fund | \$0 | \$0 | \$0 | \$0 | (\$2,500) | (\$2,500) |
| General Fund, One-Time | \$0 | \$0 | \$0 | \$0 | (\$1,500) | \$0 |
| Commerce Service Fund | \$0 | \$2,500 | \$2,500 | \$0 | \$0 | \$0 |
| Commerce Service, One-time | \$0 | \$1,500 | \$0 | \$0 | \$0 | \$0 |
| Total | \$0 | \$4,000 | \$2,500 | \$0 | (\$4,000) | (\$2,500) |

Individual, Business and/or Local Impact

Local courts could experience some cost increases due to the required reporting to the Department of Commerce. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses.