

58-37-10 Search warrants -- Administrative inspection warrants -- Inspections and seizures of property without warrant.

- (1) Search warrants relating to offenses involving controlled substances may be authorized pursuant to the Utah Rules of Criminal Procedure.
- (2) Issuance and execution of administrative inspection warrants shall be as follows:
 - (a) Any judge or magistrate of this state within his jurisdiction upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder and seizures of property appropriate to such inspections. Probable cause for purposes of this act exists upon showing a valid public interest in the effective enforcement of the act or rules promulgated thereunder sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.
 - (b) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged sworn to before a judge or magistrate which establish the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and if appropriate, the type of property to be inspected, if any. The warrant shall:
 - (i) state the grounds for its issuance and the name of each person whose affidavit has been taken to support it;
 - (ii) be directed to a person authorized by Section 58-37-9 of this act to execute it;
 - (iii) command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and if appropriate, direct the seizure of the property specified;
 - (iv) identify the item or types of property to be seized, if any; and
 - (v) direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned.
 - (c) A warrant issued pursuant to this section must be executed and returned within 10 days after its date unless, upon a showing of a need for additional time, the court instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or leave the copy and receipt at the place where the property was taken. Return of the warrant shall be made promptly and be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.
 - (d) The judge or magistrate who issued the warrant under this section shall attach a copy of the return and all other papers to the warrant and file them with the court.
- (3) The department is authorized to make administrative inspections of controlled premises in accordance with the following provisions:
 - (a) For purposes of this section only, "controlled premises" means:
 - (i) Places where persons licensed or exempted from licensing requirements under this act are required to keep records.

- (ii) Places including factories, warehouses, establishments, and conveyances where persons licensed or exempted from licensing requirements are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.
- (b) When authorized by an administrative inspection warrant a law enforcement officer or employee designated in Section 58-37-9, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.
- (c) When authorized by an administrative inspection warrant, a law enforcement officer or employee designated in Section 58-37-9 has the right:
 - (i) To inspect and copy records required by this chapter.
 - (ii) To inspect within reasonable limits and a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found, and except as provided in Subsection (3)(e), all other things including records, files, papers, processes, controls, and facilities subject to regulation and control by this chapter or by rules promulgated by the department.
 - (iii) To inventory and take stock of any controlled substance and obtain samples of any substance.
- (d) This section shall not be construed to prevent the inspection of books and records without a warrant pursuant to an administrative subpoena issued by a court or the department nor shall it be construed to prevent entries and administrative inspections including seizures of property without a warrant:
 - (i) with the consent of the owner, operator, or agent in charge of the controlled premises;
 - (ii) in situations presenting imminent danger to health or safety;
 - (iii) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
 - (iv) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and
 - (v) in all other situations where a warrant is not constitutionally required.
- (e) No inspection authorized by this section shall extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

Amended by Chapter 278, 2013 General Session