

1 **DUI PENALTIES AMENDMENT**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Perry Buckner**

5 AN ACT RELATING TO MOTOR VEHICLES; REPEALING THE SEIZURE OF LICENSE
6 PLATES AND REGISTRATION FOR CERTAIN VEHICLES; REPEALING A USE OF
7 TEMPORARY REGISTRATION PERMITS; AND MAKING TECHNICAL CORRECTIONS.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **41-1a-211**, as last amended by Chapter 223, Laws of Utah 1996

11 **41-6-44.30**, as last amended by Chapters 170 and 223, Laws of Utah 1996

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

13 Section 1. Section **41-1a-211** is amended to read:

14 **41-1a-211. Temporary permits -- Other laws applied.**

15 (1) (a) The division may grant a temporary permit to operate a vehicle for which:

16 (i) application for registration has been made, or, in the case of a newly purchased vehicle,
17 will be made;

18 (ii) evidence of ownership is provided; and

19 (iii) the proper fees have been paid.

20 (b) The temporary permit allows the vehicle to be operated pending complete registration
21 by displaying:

22 (i) the temporary permit; or

23 (ii) other evidence of the application under rules made by the commission.

24 [~~(2) (a) The division shall grant a temporary permit effective for only 29 days for a vehicle
25 that had its license plates and registration materials seized under Section 41-6-44.30.]~~

26 [~~(b) The division may require a person to pay the administrative impound fee under
27 Section 41-6-44.30, but may not charge an additional fee for a temporary permit issued under this~~

1 subsection.]

2 [(3)] (2) If a vehicle is operated on a temporary permit issued under this section or Section
3 41-3-302, that vehicle is subject to all other statutes, rules, and regulations intended to control the
4 use and operation of vehicles on the highways.

5 Section 2. Section **41-6-44.30** is amended to read:

6 **41-6-44.30. Seizure and impoundment of vehicles by peace officers -- Impound**
7 **requirements -- Removal of vehicle by owner.**

8 (1) (a) If a peace officer arrests or cites the operator of a vehicle for violating Section
9 41-6-44 or 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with
10 Subsection 41-6-43(1), the officer shall~~[(i)]~~ seize and impound the vehicle, except as provided
11 under Subsection (2)~~]; and]~~.

12 ~~[(ii) remove and seize or cause to be removed or seized, the vehicle's license plates and~~
13 ~~registration materials if the operator is a registered owner of the vehicle.]~~

14 (b) A vehicle seized and impounded under this section shall be moved by a peace officer
15 or by a tow truck that meets the standards established:

16 (i) by the department under Subsection 41-6-102(4)(b); and

17 (ii) under Title 27, Chapter 17, Motor Carrier Safety Act.

18 (2) If ~~[the operator is not a registered owner of the vehicle, and if]~~ a registered owner of
19 the vehicle, other than the operator, is present at the time of arrest, the officer may release the
20 vehicle to that registered owner, but only if the registered owner:

21 (a) requests to remove the vehicle from the scene;

22 (b) presents to the officer a valid operator's license and sufficient identification to prove
23 ownership of the vehicle;

24 (c) complies with all restrictions of his operator's license; and

25 (d) would not, in the judgment of the officer, be in violation of Section 41-6-44 or
26 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with Subsection
27 41-6-43 (1), if permitted to operate the vehicle, and if the vehicle itself is legally operable.

28 (3) (a) The peace officer or agency by whom the officer is employed shall, within 24 hours
29 after the seizure, notify, in writing, the Motor Vehicle Division of the seizure and impoundment
30 ~~[and within five days forward any license plates and registration materials seized to the Motor~~
31 ~~Vehicle Division].~~

1 (b) The notice shall state:

2 (i) the operator's name;

3 (ii) a description of the vehicle;

4 (iii) its identification number, if any;

5 (iv) its license number;

6 [~~(v) the license plates and registration materials that were seized, if any;~~]

7 [~~(vi)~~] (v) the date, time, and place of impoundment;

8 [~~(vii)~~] (vi) the reason for impoundment; and

9 [~~(viii)~~] (vii) the name of the garage or place where the vehicle is stored.

10 (4) Upon receipt of notice, the Motor Vehicle Division shall [~~(a) revoke the registration~~
11 ~~for the vehicle and not allow that vehicle to be registered with the operator as a registered owner~~
12 ~~until allowed under this section; and (b)~~] give notice to the registered owner of the vehicle in the
13 manner prescribed by Section 41-1a-114. The notice shall:

14 [(i)] (a) state the date, time, and place of impoundment, the name of the person operating
15 the vehicle at the time of seizure, if applicable, the reason for seizure and impoundment, and the
16 name of the garage or place where the vehicle is stored;

17 [(ii)] (b) state that the registered owner is responsible for payment of towing, impound,
18 and storage fees charged against the vehicle; and

19 [(iii)] (c) inform the registered owner of the vehicle of the conditions under Subsection (5)
20 that must be satisfied before the vehicle is released [~~; and~~].

21 [~~(iv) state if the license plates and registration materials were seized;~~]

22 [~~(A) how to get a temporary registration effective for only 29 days;~~]

23 [~~(B) basic information regarding how to obtain a prompt hearing before the Driver License~~
24 ~~Division regarding the person's driver license suspension; and]~~

25 [~~(C) that an order from that hearing will also apply to the vehicle's registration revocation.~~]

26 (5) (a) The impounded vehicle shall be released after the registered owner or the owner's
27 agent:

28 (i) makes a claim in person for release of the vehicle at any office of the State Tax
29 Commission;

30 (ii) pays an administrative impound fee of \$100;

31 (iii) presents identification sufficient to prove ownership of the impounded vehicle; and

1 (iv) pays all towing and storage fees to the impound lot where the vehicle is stored.

2 (b) [~~\$25~~] Twenty-five dollars of the impound fees assessed under this subsection are
3 dedicated credits to the Motor Vehicle Division and the remainder shall be deposited in the
4 General Fund.

5 [~~(6) (a) A registration for the vehicle may not be issued to the person for 120 days from
6 the date of the revocation and until the person applies to the Motor Vehicle Division for a new
7 registration in compliance with the requirements under Title 41, Chapter 1a, Part 2, Registration,
8 including obtaining the inspections and paying the fees required for a new registration.]~~

9 [~~(b) If the person successfully appeals the suspension of the driver's license under Section
10 53-3-223 or 53-3-224, then the person shall receive a new registration that shall expire on the same
11 date as the registration that was revoked for no additional fees.]~~

12 [~~(7)~~] (6) An impounded vehicle not claimed by the registered owner or the owner's agent
13 within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and
14 the proceeds, if any, disposed of under Section 41-1a-1103. The date of impoundment is
15 considered the date of seizure for computing the time period provided in Section 41-1a-1103.

16 [~~(8)~~] (7) The registered owner of the vehicle upon the payment of all fees and charges
17 incurred in the seizure and impoundment of the owner's vehicle has a cause of action for all the
18 fees and charges, together with damages, court costs, and attorney fees, against the operator of the
19 vehicle whose actions caused the impoundment.

20 [~~(9)~~] (8) Liability may not be imposed upon any peace officer, the state, or any of its
21 political subdivisions on account of the enforcement of this section.

Legislative Review Note
as of 12-15-97 12:59 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel