

ADMINISTRATIVE TRAFFIC CHECKPOINT AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

This act modifies the Utah Code of Criminal Procedure by restricting the use of administrative traffic checkpoints.

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

AMENDS:

77-23-104, as last amended by Chapter 284, Laws of Utah 1997

ENACTS:

77-23-104.5, Utah Code Annotated 1953

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

Section 1. Section **77-23-104** is amended to read:

77-23-104. Written plan -- Approval of magistrate.

(1) An administrative traffic checkpoint may be established and operated upon written authority of a magistrate.

(2) A magistrate may issue written authority to establish and operate an administrative traffic checkpoint if:

(a) a command level officer submits to the magistrate a written plan signed by the command level officer describing:

(i) the location of the checkpoint including geographical and topographical information;
(ii) the date, time, and duration of the checkpoint;
(iii) the sequence of traffic to be stopped;
(iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;
(v) the minimum number of personnel to be employed in operating the checkpoint, including the rank of the officer or officers in charge at the scene;

(vi) the configuration and location of signs, barriers, and other means of informing approaching motorists that they must stop and directing them to the place to stop;

(vii) any advance notice to the public at large of the establishment of the checkpoint; and

(viii) the instructions to be given to the enforcement officers operating the checkpoint; ~~and~~
(b) the magistrate makes an independent judicial determination that the plan appropriately:
(i) minimizes the length of time the motorist will be delayed;
(ii) minimizes the intrusion of the inspection or inquiry;
(iii) minimizes the fear and anxiety the motorist will experience;
(iv) minimizes the degree of discretion to be exercised by the individual enforcement officers
operating the checkpoint; and

(v) maximizes the safety of the motorist and the enforcement officers~~[-]; and~~
(c) the administrative traffic checkpoint has the primary purpose of inspecting, verifying, or detecting:
(i) drivers that may be under the influence of alcohol or drugs;
(ii) license plates, registration certificates, insurance certificates, or driver licenses;
(iii) violations of Title 23, Wildlife Resources Code of Utah; or
(iv) other circumstances that are specifically distinguishable by the magistrate from a general interest in crime control.

(3) Upon determination by the magistrate that the plan meets the requirements of Subsection (2)~~(b)~~, the magistrate shall sign the authorization and issue it to the command level officer, retaining a copy for the court's file.

(4) A copy of the plan and signed authorization shall be issued to the checkpoint command level officer participating in the operation of the checkpoint.

(5) Any enforcement officer participating in the operation of the checkpoint shall conform his activities as nearly as practicable to the procedures outlined in the plan.

(6) The checkpoint command level officer shall be available to exhibit a copy of the plan and signed authorization to any motorist who has been stopped at the checkpoint upon request of the motorist.

Section 2. Section **77-23-104.5** is enacted to read:

77-23-104.5. Signs -- Prohibitions.

An enforcement officer may not display a sign that notifies motorists of an administrative

traffic checkpoint unless the checkpoint is being operated under the authority of a magistrate as provided in Section 77-23-104.