

**ADMINISTRATIVE TREATMENT OF TRAFFIC
VIOLATIONS - TECHNICAL AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David N. Cox

This act makes technical changes related to an earlier repeal of a provision regarding civil penalties and adjudication for a moving traffic violation within a municipality.

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

AMENDS:

10-3-703, as last amended by Chapter 323, Laws of Utah 2000

10-3-703.7, as enacted by Chapter 323, Laws of Utah 2000

53-3-218, as last amended by Chapter 200, Laws of Utah 2002

63-63a-1, as last amended by Chapter 323, Laws of Utah 2000

63-63a-2, as last amended by Chapter 323, Laws of Utah 2000

78-7-35, as last amended by Chapters 250 and 329, Laws of Utah 2002

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

Section 1. Section **10-3-703** is amended to read:

10-3-703. Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.

(1) The governing body of each municipality may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

(2) (a) Except as provided in Subsection (2)(b), the governing body may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.

(b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance~~[, except as authorized in Section 10-3-703.5]~~.

Section 2. Section **10-3-703.7** is amended to read:

10-3-703.7. Administrative proceedings -- Procedures -- Appeals.

(1) As used in this section, "administrative proceeding" means an adjudicative hearing for a violation of a civil municipal ordinance~~[-, including an administrative traffic proceeding authorized in Section 10-3-703.5].~~

(2) An administrative proceeding:

(a) shall be a public meeting with business transacted during regularly scheduled hours;

(b) shall be conducted by an administrative law judge;

(c) shall provide due process for the parties;

(d) shall be recorded or otherwise documented so that a true and correct transcript may be made of its proceedings; and

(e) may not be held for a civil violation that occurs in conjunction with another criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.

(3) An administrative law judge:

(a) shall be appointed by the municipality to conduct administrative proceedings;

(b) may be an employee of the municipality; and

(c) shall make a final administrative determination for each administrative proceeding.

(4) (a) A final administrative determination under this section may be an order for the municipality to abate the violation.

(b) If a final administrative determination under this section is for a violation, the final administrative determination may be appealed by a party in accordance with Subsection (5).

(5) (a) (i) Any person adversely affected by an administrative proceeding may petition a district court for review of the administrative determination.

(ii) In the petition, the petitioner may only allege that the administrative proceeding's decision was arbitrary, capricious, or illegal.

(iii) The petition is barred unless it is filed within 30 days after the administrative determination is final.

(b) (i) The administrative proceeding shall transmit to the reviewing district court the record of its proceedings, including its findings, orders, and a true and correct transcript of its

proceedings.

(ii) The district court may not accept or consider any evidence that is not included in the administrative proceeding's record unless the evidence was offered to the administrative proceeding and the district court determines that the evidence was improperly excluded by the administrative proceeding.

Section 3. Section **53-3-218** is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section~~[(a)]~~, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding~~;~~ and

~~[(b) "court" includes an administrative traffic proceeding in accordance with Section 10-3-703.5.]~~

(2) (a) A court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within ten days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless Driving.

(3) The abstract shall be made in the form prescribed by the division and shall include:

- (a) the name and address of the party charged;
- (b) the number of his license certificate, if any;
- (c) the registration number of the motor vehicle or motorboat involved;
- (d) whether the motor vehicle was a commercial motor vehicle;
- (e) whether the motor vehicle carried hazardous materials;

- (f) the nature of the offense;
- (g) the date of the hearing;
- (h) the plea;
- (i) the judgment or whether bail was forfeited; and
- (j) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate his license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

Section 4. Section **63-63a-1** is amended to read:

63-63a-1. Surcharge -- Application and exemptions.

(1) (a) A surcharge shall be paid on[~~-(i)~~] all criminal fines, penalties, and forfeitures imposed by the courts[~~;~~ and].

~~[(ii) a civil fine imposed by an administrative traffic proceeding in accordance with Section 10-3-703.5.]~~

- (b) The surcharge shall be:
 - (i) 85% upon conviction of a:
 - (A) felony;
 - (B) class A misdemeanor;
 - (C) violation of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless Driving; or
 - (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including violation of comparable county or municipal ordinances; or
 - (ii) 35% upon conviction of any other offense, including violation of county or municipal ordinances not subject to the 85% surcharge.
- (2) The surcharge may not be imposed:
 - (a) upon nonmoving traffic violations;
 - (b) upon court orders when the offender is ordered to perform compensatory service

work in lieu of paying a fine; and

(c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78-3a-502.

(3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if committed by an adult.

(b) However, the surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is independent of this chapter and does not affect the imposition or collection of the surcharge.

(4) The surcharge under this section shall be imposed in addition to the fine charged for a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge imposition.

(5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be authorized and managed by this chapter rather than attached to particular offenses.

Section 5. Section **63-63a-2** is amended to read:

63-63a-2. Division of collected monies retained by state treasurer and local governmental collecting entity -- Purpose of surcharge -- Allocation of collections -- Financial information.

(1) The amount of the surcharge imposed under this chapter by courts of record shall be collected before any fine and deposited with the state treasurer.

(2) The amount of the surcharge and the amount of criminal fines, [~~civil fines,~~] penalties, and forfeitures imposed under this chapter by courts not of record [~~and administrative traffic proceedings in accordance with Section 10-3-703.5]~~] shall be collected concurrently.

(a) As monies are collected on criminal fines, [~~civil fines,~~] penalties, and forfeitures subject to the 85% surcharge, the monies shall be divided pro rata so that the local governmental collecting entity retains 54% of the collected monies and the state retains 46% of the collected monies.

(b) As monies are collected on criminal fines, [~~civil fines,~~] penalties, and forfeitures

subject to the 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting entity retains 74% of the collected monies and the state retains 26% of the collected monies.

(c) The court shall deposit with the state treasurer the surcharge portion of all monies as they are collected.

(3) Courts of record, courts not of record, and administrative traffic proceedings shall collect financial information to determine:

(a) the total number of cases in which:

(i) a final judgment has been rendered;

(ii) surcharges and fines are paid by partial or installment payment; and

(iii) the judgment is fulfilled by an alternative method upon the court's order;

(b) the total dollar amounts of surcharges owed to the state and fines owed to the state and county or municipality, including:

(i) waived surcharges;

(ii) uncollected surcharges; and

(iii) collected surcharges.

(4) The courts of record, courts not of record, and administrative traffic proceedings shall report all collected financial information monthly to the Administrative Office of the Courts. The collected information shall be categorized by cases subject to the 85% and 35% surcharge.

(5) The purpose of the surcharge is to finance the trust funds and support accounts as provided in this chapter.

(6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for the purposes described in Sections 63-63a-3 through 63-63a-9.

(b) The balance of the collected surcharge shall be deposited in the General Fund.

(c) Allocations shall be made on a fiscal year basis.

(7) The provisions of Sections 63-63a-1 and 63-63a-2 may not impact the distribution and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13, 78-3-14.5, and 78-5-116.

Section 6. Section **78-7-35** is amended to read:

78-7-35. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$140.

(b) The fee for filing a complaint or petition is:

(i) \$45 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$140 if the claim for damages or amount in interpleader is \$10,000 or more; and

(iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(c) The fee for filing a small claims affidavit is:

(i) \$45 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$70 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$70 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$40 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$190.

(i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition for expungement is \$50.

(ii) There is no fee for a petition filed under Subsection 77-18-10(2).

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 63-63a-8.

(iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section 78-31b-9.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$25.

(l) The fee for filing probate or child custody documents from another state is \$25.

(m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$40.

(n) The fee for filing a judgment by confession without action under Section 78-22-3 is \$25.

(o) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78, Chapter 31a, [Utah] Arbitration Act, that is not part of an action before the court is \$25.

(p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

(q) The fee for filing any accounting required by law is:

(i) \$10 for an estate valued at \$50,000 or less;

(ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$150 for an estate valued at more than \$168,000.

(r) The fee for filing a demand for a civil jury is \$75.

(s) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$25.

(t) The fee for filing documents that require judicial approval but are not part of an action before the court is \$25.

(u) The fee for a petition to open a sealed record is \$25.

(v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in

addition to any fee for a complaint or petition.

(w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(x) The fee for a certificate issued under Section 26-2-25 is \$2.

(y) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be credited to the court as a reimbursement of expenditures.

(bb) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(cc) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(dd) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital

Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any monies remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated on the

balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record [~~or an administrative traffic proceeding in accordance with Section 10-3-703.5~~] to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate monies from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.