

FUND FROM IMPAIRED AND DRUG RELATED VIOLATIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 63, State Affairs in General, and Title 53, Public Safety, to impose a surcharge on convictions of driving under the influence of alcohol or drugs to reimburse law enforcement and state laboratory costs of drawing and testing these blood samples.

Highlighted Provisions:

This bill:

- ▶ creates a restricted account in the General Fund known as the Public Safety Phlebotomy and Forensic Toxicology Laboratory Account;
- ▶ creates a \$95 surcharge to be assessed on all convictions related to driving in an alcohol or a drug impaired condition;
- ▶ provides procedures for a court of record and a court not of record to collect the surcharge;
- ▶ requires the collected surcharge to be deposited in the Public Safety Phlebotomy and Forensic Toxicology Laboratory Account;
- ▶ provides that the monies in the account are to be used to reimburse:
 - law enforcement agencies for drawing blood samples in investigations related to operating a motor vehicle under the influence of alcohol or drugs; and
 - the Division of Epidemiology and Laboratory Services within the Utah



28 Department of Health for expenses in testing these blood samples for alcohol and drugs; and
 29 ▶ directs the Department of Public Safety to establish administrative rules for the
 30 allocation of funds appropriated by the Legislature from the Public Safety
 31 Phlebotomy and Forensic Toxicology Laboratory Account.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill takes effect on July 1, 2008.

36 This bill coordinates with H.B. 78, Title 78 Recodification and Revision, providing
 37 technical renumbering.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **53-1-106**, as last amended by Laws of Utah 2007, Chapter 60

41 ENACTS:

42 **63-63d-101**, Utah Code Annotated 1953

43 **63-63d-102**, Utah Code Annotated 1953

44 **63-63d-103**, Utah Code Annotated 1953

45 **63-63d-104**, Utah Code Annotated 1953

46 **63-63d-105**, Utah Code Annotated 1953



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

49 Section 1. Section **53-1-106** is amended to read:

50 **53-1-106. Department duties -- Powers.**

51 (1) In addition to the responsibilities contained in this title, the department shall:

52 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic
 53 Code, including:

54 (i) setting performance standards for towing companies to be used by the department,
 55 as required by Section 41-6a-1406; and

56 (ii) advising the Department of Transportation regarding the safe design and operation
 57 of school buses, as required by Section 41-6a-1304;

58 (b) make rules to establish and clarify standards pertaining to the curriculum and

- 59 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;
- 60 (c) aid in enforcement efforts to combat drug trafficking;
- 61 (d) meet with the Department of Technology Services to formulate contracts, establish
62 priorities, and develop funding mechanisms for dispatch and telecommunications operations;
- 63 (e) provide assistance to the Crime Victims' Reparations Board and Reparations Office
64 in conducting research or monitoring victims' programs, as required by Section 63-25a-405;
- 65 (f) develop sexual assault exam protocol standards in conjunction with the Utah
66 Hospital Association;
- 67 (g) engage in emergency planning activities, including preparation of policy and
68 procedure and rulemaking necessary for implementation of the federal Emergency Planning
69 and Community Right to Know Act of 1986, as required by Section 63-5-5;
- 70 (h) implement the provisions of Section 53-2-202, the Emergency Management
71 Assistance Compact; [~~and~~]
- 72 (i) (i) maintain a database of the information listed below regarding each driver license
73 or state identification card status check made by a law enforcement officer:
- 74 (A) the agency employing the law enforcement officer;
- 75 (B) the name of the law enforcement officer or the identifying number the agency has
76 assigned to the law enforcement officer;
- 77 (C) the race and gender of the law enforcement officer;
- 78 (D) the purpose of the law enforcement officer's status check, including but not limited
79 to a traffic stop or a pedestrian stop; and
- 80 (E) the race of the individual regarding whom the status check is made, based on the
81 information provided through the application process under Section 53-3-205 or 53-3-804;
- 82 (ii) provide access to the database created in Subsection (1)(i)(i) to the Commission on
83 Criminal and Juvenile Justice for the purpose of:
- 84 (A) evaluating the data;
- 85 (B) evaluating the effectiveness of the data collection process; and
- 86 (C) reporting and making recommendations to the Legislature; and
- 87 (iii) classify any personal identifying information of any individual, including law
88 enforcement officers, in the database as protected records under Subsection 63-2-304(9)[=]; and
- 89 (j) make rules in accordance with Title 63, Chapter 46a, Utah Administrative

90 Rulemaking Act, to establish the procedure for making reimbursements under Subsection
91 63-63d-103(3).

92 (2) (a) The department may establish a schedule of fees as required or allowed in this
93 title for services provided by the department.

94 (b) The fees shall be established in accordance with Section 63-38-3.2.

95 (3) The department may establish or contract for the establishment of an Organ
96 Procurement Donor Registry in accordance with Section 26-28-120.

97 Section 2. Section **63-63d-101** is enacted to read:

98 **Part 1. Public Safety Phlebotomy and Laboratory Surcharge**

99 **63-63d-101. Title.**

100 This part is known as the "Public Safety Phlebotomy and Laboratory Surcharge."

101 Section 3. Section **63-63d-102** is enacted to read:

102 **63-63d-102. Definitions.**

103 As used in this part:

104 (1) "Phlebotomy account" means the Public Safety Phlebotomy and Forensic
105 Toxicology Laboratory Account created in Section 63-63d-103.

106 (2) "Phlebotomy surcharge" means the Public Safety Phlebotomy and Forensic
107 Toxicology Laboratory Surcharge.

108 Section 4. Section **63-63d-103** is enacted to read:

109 **63-63d-103. Public safety phlebotomy and forensic toxicology laboratory account**
110 **created -- Funding -- Uses.**

111 (1) There is created a restricted account in the General Fund known as the "Public
112 Safety Phlebotomy and Forensic Toxicology Laboratory Account."

113 (2) The state treasurer shall deposit in the phlebotomy account monies collected from
114 the surcharge established in Section 63-63d-104.

115 (3) Any interest earned on the phlebotomy account shall be deposited into the General
116 Fund.

117 (4) Upon appropriation by the Legislature, the Department of Public Safety shall use
118 the monies from the phlebotomy account to reimburse:

119 (a) law enforcement agencies for expenses incurred in drawing and testing blood
120 samples in investigations related to offenses described in Section 63-63d-104; and

121 (b) the Division of Epidemiology and Laboratory Services within the Utah Department
122 of Health for expenses incurred in testing these blood samples for alcohol and drugs.

123 Section 5. Section **63-63d-104** is enacted to read:

124 **63-63d-104. Public Safety Phlebotomy and Laboratory Surcharge -- Application**
125 **and exemptions -- Deposit in restricted account.**

126 (1) In addition to any fine, penalty, forfeiture, or other surcharge, the court shall assess
127 a public safety phlebotomy and laboratory surcharge of \$95 against a defendant convicted of a
128 violation of:

129 (a) Section 41-6a-502 regarding operating a motor vehicle under the influence of
130 alcohol, drugs, or a combination of these;

131 (b) Section 41-6a-512 or 41-6a-528 regarding reckless driving that involves alcohol,
132 any drug, or a combination of these;

133 (c) Section 41-6a-517 regarding operating a motor vehicle when the person has any
134 measurable amount of a controlled substance in the person's body;

135 (d) local ordinances essentially similar to:

136 (i) Section 41-6a-502 regarding operating a motor vehicle under the influence of
137 alcohol, drugs, or a combination of these; or

138 (ii) Section 41-6a-512 or 41-6a-528 regarding reckless driving that involves alcohol,
139 any drug, or a combination of these;

140 (e) automobile homicide under Section 76-5-207;

141 (f) Subsection 58-37-8(2)(g); or

142 (g) a violation described in Subsections (1)(a) through (f), in which judgment of
143 conviction is reduced under Section 76-3-402.

144 (2) The phlebotomy surcharge may not be imposed upon penalties assessed by the
145 juvenile court as part of the nonjudicial adjustment of a case under Section 78-3a-502.

146 (3) The phlebotomy surcharge does not include amounts assessed or collected
147 separately by juvenile courts for the Juvenile Restitution Account, which is independent of this
148 chapter and does not affect the imposition or collection of the phlebotomy surcharge.

149 (4) The phlebotomy surcharge under this section shall be imposed in addition to the
150 fine charged for a criminal offense, and no reduction may be made in the fine charged because
151 of the imposition of the phlebotomy surcharge.

152 Section 6. Section **63-63d-105** is enacted to read:

153 **63-63d-105. Surcharge collected in courts -- Remitted to state treasurer -- Deposit**
154 **in restricted account.**

155 (1) (a) In courts of record, the phlebotomy surcharge imposed under Section
156 63-63d-104 shall be collected after the surcharge under Sections 63-63a-1 and 63-63c-101, but
157 before the fine and deposited with the state treasurer.

158 (b) (i) In courts not of record, the phlebotomy surcharge and the amount of criminal
159 finest, penalties, and forfeitures imposed under Section 63-63d-104 shall be collected
160 concurrently.

161 (ii) The local governmental collecting entity shall remit the phlebotomy surcharge to
162 the state treasurer.

163 (2) The state treasurer shall deposit the collected phlebotomy surcharge in the Public
164 Safety Phlebotomy and Forensic Toxicology Laboratory Account created in Section
165 63-63d-103.

166 Section 7. **Effective date.**

167 This bill takes effect on July 1, 2008.

168 Section 8. **Coordinating H.B. 152 with H.B. 78 -- Technical renumbering.**

169 If this H.B. 152 and H.B. 78, Title 78 Recodification and Revision, both pass, it is the
170 intent of the Legislature that the Office of Legislative Research and General Counsel, in
171 preparing the Utah Code database for publication:

172 (1) renumber Sections 63-63d-101 through 63-63d-105 to Sections 78A-2-701 through
173 78A-2-705; and

174 (2) change internal references accordingly.

Legislative Review Note
as of 1-23-08 6:51 AM

Office of Legislative Research and General Counsel