

**DIGITAL CERTIFICATES FOR
BREATHALIZERS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: Jon J. Greiner

LONG TITLE

General Description:

This bill allows the Department of Public Safety to digitize certificates of calibration for breathalizers and upload them to a secure website for use by prosecutors and courts.

Highlighted Provisions:

This bill:

- ▶ allows the Department of Public Safety to digitize certificates of calibration for breathalizers;
- ▶ requires that the department provide a secure location on its website to post the digital certificates; and
- ▶ requires a court to accept a digital certificate in lieu of the original.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78-25-27, Utah Code Annotated 1953

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



28 Section 1. Section **78-25-27** is enacted to read:

29 **78-25-27. Calibration certificates for breathalizers.**

30 (1) As used in this section:

31 (a) "Breathalyzer" means any device used by a law enforcement agency which utilizes a
32 person's breath to estimate blood alcohol content.

33 (b) "Calibration" means the manual setting of specific levels on a breathalyzer by a
34 person trained to reset the machine to insure as accurate results as possible.

35 (c) "Certificate of calibration" means the document issued by the person who calibrates
36 a breathalyzer, attesting to the accuracy of the machine.

37 (d) "Department" means the Department of Public Safety created in Section 53-1-103.

38 (e) "Digitize" means to convert content from a tangible, analog form into a digital
39 electronic representation of that content.

40 (2) The department may digitize and post the digital format of certificates of
41 calibration on its website in a secure location not available to the public.

42 (3) The secure location shall be available to courts and local prosecutors' offices for use
43 in actions in which it is alleged a party was intoxicated and a law enforcement officer required
44 the party to submit to a breathalyzer test.

45 (4) The department shall make rules in accordance with Title 63, Chapter 46a, Utah
46 Administrative Rulemaking Act:

47 (a) to provide a method for insuring the accuracy of the certificates on the website; and

48 (b) providing for an attestation to the authenticity of the certificate upon download by a
49 prosecutor or court.

50 (5) Under the provisions of Utah Rule of Evidence 1002, a court shall accept digital
51 certificates of calibration for a breathalyzer device presented by a prosecutor for the purpose of
52 proving accuracy of the device. The certificate shall be accepted as an original with the
53 attestation provided by the department upon download by the prosecutor or court.

Legislative Review Note
as of 1-30-08 4:00 PM

Office of Legislative Research and General Counsel

H.B. 371 - Digital Certificates for Breathalizers

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will generate cost savings within the Department of Public Safety of \$1,800 annually beginning FY 2009.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	(\$1,800)	(\$1,800)	\$0	\$0	\$0
Total	\$0	(\$1,800)	(\$1,800)	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.