

1                   **CONTROLLED SUBSTANCE DATABASE - REPORTING**  
2                   **CONVICTIONS FOR DRIVING UNDER THE**  
3                   **INFLUENCE OR IMPAIRED DRIVING**

4                                   2010 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Bradley M. Daw**

7                                   Senate Sponsor: Curtis S. Bramble

8   Cosponsors:  
9   Trisha S. Beck

                                  Paul Ray

                                  F. Jay Seegmiller

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11 **LONG TITLE**

12 **General Description:**

13                   This bill amends provisions of the Traffic Code and the Utah Controlled Substances  
14 Act to provide for notification to a practitioner when a person is convicted of a crime  
15 for driving under the influence of, or impaired driving under the influence of, a  
16 controlled substance that the practitioner may have prescribed to that person.

17 **Highlighted Provisions:**

18                   This bill:

19                   ▶ requires a court to report certain information to the Division of Occupational and  
20 Professional Licensing (DOPL) when a person is convicted of driving under the  
21 influence or of impaired driving, if there is evidence that the person's driving was  
22 under the influence of, or impaired by, a prescribed controlled substance;

23                   ▶ requires that, when DOPL receives a report described in the preceding paragraph,  
24 DOPL must notify each practitioner who may have written a prescription for the  
25 controlled substance of the conviction and certain information relating to the  
26 conviction;

27                   ▶ requires DOPL to increase the licensing fee for manufacturing, producing,  
28 distributing, dispensing, administering, or conducting research to pay the startup  
29 and ongoing costs of DOPL for complying with the requirements of the preceding

30 paragraph; and

31       ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       This bill coordinates with H.B. 28 and H.B. 36 by providing technical amendments.

36       This bill coordinates with H.B. 36, H.B. 28, and H.B. 35 by providing technical  
37 amendments.

38 **Utah Code Sections Affected:**

39 AMENDS:

40       **41-6a-502**, as last amended by Laws of Utah 2005, Chapter 91 and renumbered and  
41 amended by Laws of Utah 2005, Chapter 2

42       **41-6a-502.5**, as last amended by Laws of Utah 2009, Chapter 201

43 ENACTS:

44       **58-37-7.9**, Utah Code Annotated 1953

45 **Utah Code Sections Affected by Coordination Clause:**

46       **58-37f-702**, Utah Code Annotated 1953

47       **58-37f-703**, Utah Code Annotated 1953



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

50       Section 1. Section **41-6a-502** is amended to read:

51       **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**  
52 **both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**

53       (1) A person may not operate or be in actual physical control of a vehicle within this  
54 state if the person:

55       (a) has sufficient alcohol in the person's body that a subsequent chemical test shows  
56 that the person has a blood or breath alcohol concentration of .08 grams or greater at the time  
57 of the test;

58 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol  
59 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

60 (c) has a blood or breath alcohol concentration of .08 grams or greater at the time of  
61 operation or actual physical control.

62 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100  
63 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of  
64 alcohol per 210 liters of breath.

65 (3) A violation of this section includes a violation under a local ordinance similar to  
66 this section adopted in compliance with Section 41-6a-510.

67 (4) Beginning on July 1, 2012, a court shall, monthly, send to the Division of  
68 Occupational and Professional Licensing, created in Section 58-1-103, a report containing the  
69 name, case number, and, if known, the date of birth of each person convicted during the  
70 preceding month of a violation of this section for whom there is evidence that the person was  
71 driving under the influence, in whole or in part, of a prescribed controlled substance.

72 Section 2. Section **41-6a-502.5** is amended to read:

73 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions --**  
74 **Sentencing requirements.**

75 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of  
76 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of  
77 impaired driving under this section if:

78 (a) the defendant completes court ordered probation requirements; or

79 (b) (i) the prosecutor agrees as part of a negotiated plea; and

80 (ii) the court finds the plea to be in the interest of justice.

81 (2) A conviction entered under this section is a class B misdemeanor.

82 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of  
83 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

84 (ii) If the defendant fails to appear before the court and establish successful  
85 completion of the court ordered probation requirements under Subsection (1)(a), the court

86 shall enter an amended conviction of Section 41-6a-502.

87 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of  
88 conviction.

89 (b) The court may enter a conviction of impaired driving immediately under  
90 Subsection (1)(b).

91 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor  
92 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one  
93 degree.

94 (5) (a) The court shall notify the Driver License Division of each conviction entered  
95 under this section.

96 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of  
97 Occupational and Professional Licensing, created in Section 58-1-103, a report containing the  
98 name, case number, and, if known, the date of birth of each person convicted during the  
99 preceding month of a violation of this section for whom there is evidence that the person was  
100 driving while impaired, in whole or in part, by a prescribed controlled substance.

101 (6) (a) The provisions in Subsections 41-6a-505(1), (2), and (3) that require a  
102 sentencing court to order a convicted person to participate in a screening, an assessment, or an  
103 educational series, or obtain substance abuse treatment or do a combination of those things,  
104 apply to a conviction entered under this section.

105 (b) The court shall render the same order regarding screening, assessment, an  
106 educational series, or substance abuse treatment in connection with a first, second, or  
107 subsequent conviction under this section as the court would render in connection with  
108 applying respectively, the first, second, or subsequent conviction requirements of Subsection  
109 41-6a-505(1), (2), or (3).

110 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section  
111 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the  
112 reporting court notifies the Driver License Division that the defendant is participating in or has  
113 successfully completed the program of a driving under the influence court.

114 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

115 (i) a CDL license holder; or

116 (ii) a violation that occurred in a commercial motor vehicle.

117 Section 3. Section **58-37-7.9** is enacted to read:

118 **58-37-7.9. Reporting certain convictions to practitioners.**

119 (1) The definitions in Subsection 58-37-7.5(1) apply to this section.

120 (2) Beginning on July 1, 2012, if the division receives a report from a court under  
121 Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) relating to a conviction for driving under the  
122 influence of, or while impaired by, a prescribed controlled substance, the division shall:

123 (a) attempt to identify, through the database, each practitioner who may have  
124 prescribed the controlled substance to the convicted person; and

125 (b) provide each practitioner identified under Subsection (2)(a) with:

126 (i) a copy of the information provided by the court; and

127 (ii) the information obtained from the database that led the division to determine that  
128 the practitioner receiving the information may have prescribed the controlled substance to the  
129 convicted person.

130 (3) It is the intent of the Legislature that the information provided under Subsection  
131 (2)(b) is provided for the purpose of assisting the practitioner in:

132 (a) discussing the manner in which the controlled substance may impact the convicted  
133 person's driving;

134 (b) advising the convicted person on measures that may be taken to avoid adverse  
135 impacts of the controlled substance on future driving; and

136 (c) making decisions regarding future prescriptions written for the convicted person.

137 (4) Beginning on July 1, 2010, the division shall, in accordance with Section  
138 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup  
139 and ongoing costs of the division for complying with the requirements of this section.

140 Section 4. **Coordinating H.B. 36 with H.B. 28 -- Technical amendments.**

141 (1) If this H.B. 36 and H.B. 28, Controlled Substance Database Amendments, both

142 pass, and H.B. 35, Controlled Substance Database Reporting of Prescribed Controlled  
143 Substance Overdose or Poisoning, does not pass, it is the intent of the Legislature that the  
144 Office of Legislative Research and General Counsel shall prepare the Utah Code database for  
145 publication by renumbering and amending Section 58-37-7.9 to read:

146 **"58-37f-702. Reporting certain convictions to practitioners.**

147 (1) Beginning on July 1, 2012, if the division receives a report from a court under  
148 Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) relating to a conviction for driving under the  
149 influence of, or while impaired by, a prescribed controlled substance, the division shall:

150 (a) attempt to identify, through the database, each practitioner who may have  
151 prescribed the controlled substance to the convicted person; and

152 (b) provide each practitioner identified under Subsection (1)(a) with:

153 (i) a copy of the information provided by the court; and

154 (ii) the information obtained from the database that led the division to determine that  
155 the practitioner receiving the information may have prescribed the controlled substance to the  
156 convicted person.

157 (2) It is the intent of the Legislature that the information provided under Subsection  
158 (1)(b) is provided for the purpose of assisting the practitioner in:

159 (a) discussing the manner in which the controlled substance may impact the convicted  
160 person's driving;

161 (b) advising the convicted person on measures that may be taken to avoid adverse  
162 impacts of the controlled substance on future driving; and

163 (c) making decisions regarding future prescriptions written for the convicted person.

164 (3) Beginning on July 1, 2010, the division shall, in accordance with Section  
165 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup  
166 and ongoing costs of the division for complying with the requirements of this section."

167 **Section 5. Coordinating H.B. 36 with H.B. 28 and H.B. 35 -- Technical**  
168 **amendments.**

169 (1) If this H.B. 36, H.B. 28, Controlled Substance Database Amendments, and H.B.

170 35, Controlled Substance Database - Reporting of Prescribed Controlled Substance Overdose  
171 or Poisoning, all pass, it is the intent of the Legislature that the Office of Legislative Research  
172 and General Counsel shall prepare the Utah Code database for publication by renumbering and  
173 amending Section 58-37-7.9 in this H.B. 36 to read:

174 **"58-37f-703. Reporting certain convictions to practitioners.**

175 (1) Beginning on July 1, 2012, if the division receives a report from a court under  
176 Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) relating to a conviction for driving under the  
177 influence of, or while impaired by, a prescribed controlled substance, the division shall:

178 (a) attempt to identify, through the database, each practitioner who may have  
179 prescribed the controlled substance to the convicted person; and

180 (b) provide each practitioner identified under Subsection (1)(a) with:

181 (i) a copy of the information provided by the court; and

182 (ii) the information obtained from the database that led the division to determine that  
183 the practitioner receiving the information may have prescribed the controlled substance to the  
184 convicted person.

185 (2) It is the intent of the Legislature that the information provided under Subsection  
186 (1)(b) is provided for the purpose of assisting the practitioner in:

187 (a) discussing the manner in which the controlled substance may impact the convicted  
188 person's driving;

189 (b) advising the convicted person on measures that may be taken to avoid adverse  
190 impacts of the controlled substance on future driving; and

191 (c) making decisions regarding future prescriptions written for the convicted person.

192 (3) Beginning on July 1, 2010, the division shall, in accordance with Section  
193 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup  
194 and ongoing costs of the division for complying with the requirements of this section."