

Representative Bradley M. Daw proposes the following substitute bill:

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
9 **LONG TITLE**

10 **General Description:**

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

15 **Highlighted Provisions:**

16 This bill:

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

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

25 ▶ makes technical changes.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

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

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

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **41-6a-502**, as last amended by Laws of Utah 2005, Chapter 91 and renumbered and
35 amended by Laws of Utah 2005, Chapter 2

36 **41-6a-502.5**, as last amended by Laws of Utah 2009, Chapter 201

37 ENACTS:

38 **58-37-7.9**, Utah Code Annotated 1953

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

40 **58-37f-702**, Utah Code Annotated 1953

41 **58-37f-703**, Utah Code Annotated 1953



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

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

45 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**
46 **both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**

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

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

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

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

56 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100

57 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of
58 alcohol per 210 liters of breath.

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

61 (4) If there is evidence that a person who is convicted of a violation of this section was
62 driving under the influence, in whole or in part, of a prescribed controlled substance, the court
63 shall send a report to the Division of Occupational and Professional Licensing, created in
64 Section 58-1-103, of:

65 (a) the conviction;

66 (b) the type of controlled substance that contributed to the impairment, if known; and

67 (c) the name of each person who prescribed the controlled substance to the convicted
68 person, if known.

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

70 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions --**

71 **Sentencing requirements.**

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

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

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

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

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

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

81 (ii) If the defendant fails to appear before the court and establish successful completion
82 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
83 amended conviction of Section 41-6a-502.

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

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

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

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

93 (b) If there is evidence that a person who is convicted of a violation of this section was
94 driving while impaired, in whole or in part, by use of a prescribed controlled substance, the
95 court shall send a report to the Division of Occupational and Professional Licensing, created in
96 Section 58-1-103, of:

97 (i) the conviction;

98 (ii) the type of controlled substance that contributed to the impairment, if known; and

99 (iii) the name of each person who prescribed the controlled substance to the convicted
100 person, if known.

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 applying
108 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) If the division receives a report from a court under Subsection 41-6a-502(4) or
121 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired
122 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 **Section 4. Coordinating H.B. 36 with H.B. 28 -- Technical amendments.**

138 (1) If this H.B. 36 and H.B. 28, Controlled Substance Database Amendments, both
139 pass, and H.B. 35, Controlled Substance Database Reporting of Prescribed Controlled
140 Substance Overdose or Poisoning, does not pass, it is the intent of the Legislature that the
141 Office of Legislative Research and General Counsel shall prepare the Utah Code database for
142 publication by renumbering and amending Section 58-37-7.9 to read:

143 **"58-37f-702. Reporting certain convictions to practitioners.**

144 (1) If the division receives a report from a court under Subsection 41-6a-502(4) or
145 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired
146 by, a prescribed controlled substance, the division shall:

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

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

150 (i) a copy of the information provided by the court; and
151 (ii) the information obtained from the database that led the division to determine that
152 the practitioner receiving the information may have prescribed the controlled substance to the
153 convicted person.

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

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

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

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

161 **Section 5. Coordinating H.B. 36 with H.B. 28 and H.B. 35 -- Technical**
162 **amendments.**

163 (1) If this H.B. 36, H.B. 28, Controlled Substance Database Amendments, and H.B. 35,
164 Controlled Substance Database - Reporting of Prescribed Controlled Substance Overdose or
165 Poisoning, all pass, it is the intent of the Legislature that the Office of Legislative Research and
166 General Counsel shall prepare the Utah Code database for publication by renumbering and
167 amending Section 58-37-7.9 in this H.B. 36 to read:

168 **"58-37f-703. Reporting certain convictions to practitioners.**

169 (1) If the division receives a report from a court under Subsection 41-6a-502(4) or
170 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired
171 by, a prescribed controlled substance, the division shall:

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

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

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

176 (ii) the information obtained from the database that led the division to determine that
177 the practitioner receiving the information may have prescribed the controlled substance to the
178 convicted person.

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

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

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

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