

Senator Curtis S. Bramble proposes the following substitute bill:

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

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley M. Daw

Senate Sponsor: Curtis S. Bramble

Cosponsors:
Trisha S. Beck

Paul Ray

F. Jay Seegmiller

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ requires a court to report certain information to the Division of Occupational and Professional Licensing (DOPL) when a person is convicted of driving under the influence or of impaired driving, if there is evidence that the person's driving was under the influence of, or impaired by, a prescribed controlled substance;
- ▶ requires that, when DOPL receives a report described in the preceding paragraph, DOPL must notify each practitioner that may have written a prescription for the 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 completion
85 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
86 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 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) 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. 35,
170 Controlled Substance Database - Reporting of Prescribed Controlled Substance Overdose or
171 Poisoning, all pass, it is the intent of the Legislature that the Office of Legislative Research and
172 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."

**Revised
Fiscal Note**

**H.B. 36 2nd Sub. (Gray) - Controlled Substance Database - Reporting
Convictions for Driving Under the Influence or Impaired Driving**

2010 General Session

State of Utah

State Impact

Enactment of this bill will require an ongoing appropriation of \$8,100 from the Commerce Service Fund to the Department of Commerce beginning in FY 2012. License fees for individuals licensed to prescribe controlled substances will be increased to cover the additional expenses and will generate an additional \$11,900 per year to the General Fund beginning in FY 2012. Commerce Service Fund revenue and expenditures affect the annual transfer to the General Fund.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$11,900	\$11,900
General Fund, One-Time	\$0	\$0	\$0	\$0	(\$11,900)	\$0
Commerce Service Fund	\$0	\$8,100	\$8,100	\$0	\$0	\$0
Commerce Service, One-time	\$0	(\$8,100)	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$8,100	\$0	\$0	\$11,900

Individual, Business and/or Local Impact

Individuals licensed to prescribe controlled substances will see their license fee increase by \$1.50. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments.
