

## **Part 1**

### **Administrative Traffic Checkpoint Act**

#### **77-23-101 Title of act.**

Sections 77-23-101 through 77-23-105 may be cited as the "Administrative Traffic Checkpoint Act."

Enacted by Chapter 72, 1992 General Session

#### **77-23-102 Definitions.**

As used in this part:

- (1) "Administrative traffic checkpoint" means a roadblock procedure where enforcement officers stop all, or a designated sequence of, motor vehicles traveling on highways and roads and subject those vehicles to inspection or testing and the drivers or occupants to questioning or the production of documents.
- (2) "Command level officer" includes all sheriffs, heads of law enforcement agencies, and all supervisory enforcement officers of sergeant rank or higher.
- (3) "Emergency circumstances" means circumstances where enforcement officers reasonably believe road conditions, weather conditions, or persons present a significant hazard to persons or the property of other persons.
- (4) "Enforcement officer" includes:
  - (a) peace officers as defined in Title 53, Chapter 13, Peace Officer Classifications;
  - (b) correctional officers as defined in Title 53, Chapter 13, Peace Officer Classifications;
  - (c) special function officers as defined and under the restrictions of Title 53, Chapter 13, Peace Officer Classifications; and
  - (d) federal officers as defined in Title 53, Chapter 13, Peace Officer Classifications.
- (5) "Magistrate" includes all judicial officers enumerated in Subsection 77-1-3(4).
- (6) "Motor vehicle" includes all vehicles as defined in Title 41, Chapter 1a, Motor Vehicle Act.

Amended by Chapter 282, 1998 General Session

#### **77-23-103 Circumstances permitting an administrative traffic checkpoint.**

A motor vehicle may be stopped and the occupants detained by an enforcement officer when the enforcement officer:

- (1) is acting pursuant to a duly authorized search warrant or arrest warrant;
- (2) has probable cause to arrest or search;
- (3) has reasonable suspicion that criminal activity has occurred or is occurring;
- (4) is acting under emergency circumstances; or
- (5) is acting pursuant to duly authorized administrative traffic checkpoint authority granted by a magistrate in accordance with Section 77-23-104.

Enacted by Chapter 72, 1992 General Session

#### **77-23-104 Written plan -- Approval of magistrate.**

- (1) An administrative traffic checkpoint may be established and operated upon written authority of a magistrate.

- (2) A magistrate may issue written authority to establish and operate an administrative traffic checkpoint if:
  - (a) a command level officer submits to the magistrate a written plan signed by the command level officer describing:
    - (i) the location of the checkpoint including geographical and topographical information;
    - (ii) the date, time, and duration of the checkpoint;
    - (iii) the sequence of traffic to be stopped;
    - (iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;
    - (v) the minimum number of personnel to be employed in operating the checkpoint, including the rank of the officer or officers in charge at the scene;
    - (vi) the configuration and location of signs, barriers, and other means of informing approaching motorists that they must stop and directing them to the place to stop;
    - (vii) any advance notice to the public at large of the establishment of the checkpoint; and
    - (viii) the instructions to be given to the enforcement officers operating the checkpoint;
  - (b) the magistrate makes an independent judicial determination that the plan appropriately:
    - (i) minimizes the length of time the motorist will be delayed;
    - (ii) minimizes the intrusion of the inspection or inquiry;
    - (iii) minimizes the fear and anxiety the motorist will experience;
    - (iv) minimizes the degree of discretion to be exercised by the individual enforcement officers operating the checkpoint; and
    - (v) maximizes the safety of the motorist and the enforcement officers; and
  - (c) the administrative traffic checkpoint has the primary purpose of inspecting, verifying, or detecting:
    - (i) drivers that may be under the influence of alcohol or drugs;
    - (ii) license plates, registration certificates, insurance certificates, or driver licenses;
    - (iii) violations of Title 23A, Wildlife Resources Act; or
    - (iv) other circumstances that are specifically distinguishable by the magistrate from a general interest in crime control.
- (3) Upon determination by the magistrate that the plan meets the requirements of Subsection (2), the magistrate shall sign the authorization and issue it to the command level officer, retaining a copy for the court's file.
- (4) A copy of the plan and signed authorization shall be issued to the checkpoint command level officer participating in the operation of the checkpoint.
- (5) Any enforcement officer participating in the operation of the checkpoint shall conform the enforcement officer's activities as nearly as practicable to the procedures outlined in the plan.
- (6) The checkpoint command level officer shall be available to exhibit a copy of the plan and signed authorization to any motorist who has been stopped at the checkpoint upon request of the motorist.

Amended by Chapter 34, 2023 General Session

**77-23-104.5 Signs -- Prohibitions.**

An enforcement officer may not display a sign that notifies motorists of an administrative traffic checkpoint unless the checkpoint is being operated under the authority of a magistrate as provided in Section 77-23-104.

Enacted by Chapter 168, 2001 General Session

**77-23-105 Failure to stop -- Criminal liability.**

Any person who intentionally and knowingly passes, without stopping as required, any administrative traffic checkpoint operated under the authority of a magistrate as provided in Section 77-23-104 is guilty of a class B misdemeanor.

Enacted by Chapter 72, 1992 General Session