

Effective 7/1/2023

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